BROWN

Taxation for Special Purposes by Independent Boards in Illinois

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TAXATION FOR SPECIAL PURPOSES BY INDEPENDENT BOARDS IN ILLINOIS

BY

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I HEREBY RECOMMEND THAT THE THESIS PREPARED UNDER MY SUPERVISION BY

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ENTITLED Taxation for Special Purposes by Independent Boards in Illinois.

BE ACCEPTED AS FULFILLING THIS PART OF THE REQUIREMENTS FOR THE

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INTRODUCTION.

The form of government everywhere in operation in the United States is based upon a written constitution. The persons who exercise the various functions of government are agents of the sovereign power of the state. "It is a fundamental principle that an agent may not without express authority delegate his powers and duties to another."[1] Therefore it naturally follows that the Legislature cannot delegate its powers unless it receives permission from the Constitution. Particularly is this true of the delegation of the taxing power.

It is of course not necessary that the Legislature should determine all the details of the scheme of taxation, or preform all the duties incident to the levying and collection of the taxes. The existence of the law, and its general provisions once having been determined, its administration may be left to other agencies. This distinction was well stated by the Supreme Court of Pennsylvania: "The Legislature cannot delegate its power to make a law, but it can make a law to delegate a power, to determine some fact or state of things upon which the law makes or intends to make its own action depend."[2]

But there is one exception to the rule that the Legislature can not delegate the power of taxation. It is an exception as old as the rule itself: the delegation of power to municipal sub-divisions. The local municipalities are from one aspect the agent of the state, and from another they are local legislatures. The principle of the consent

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1. Gray, Limitations of the Taxing Power. Page 271.
2. 72 Pa. St. 491.

of the people taxed has developed through long usage to a settled fact, the only restrictions being that equality must be obtained.

The determination of the exact rules determining the delegation of the taxing power to municipal bodies, has resulted in a great many court decisions. This is particularly true in the absence of express Constitutional restrictions. The Constitutions of Illinois of 1848 and 1870 both contained clauses, limiting the delegation of taxing power to the "corporate authorities" of municipalities. In a comparatively early case the Supreme Court of Illinois, stated the general rule that by the phrase "corporate authorities" as used in the Constitution "must be understood those municipal authorities who are elected by the people or chosen in some manner to which they have given their assent."[1] And when the foregoing conditions have been met, Road, Park and Drainage Commissioners have all been declared corporate authorities within the meaning of the Constitution, and vested with the powers of taxation which may be delegated to them,[2] while the Constitution expressly delegates the taxing power to school districts along with other territorial divisions. In the following pages I shall endeavor to trace the history of taxation by the independent taxing boards of the State: the Road, School, Drainage and Park Boards.

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1. Harwood v. St Clair Drainage Commissioners, 51 Ill. 13.
2. Road. Lange v. Soffell, 38 Ill. App. 624.
   Park. People v. Solomon, 51 Ill. 37.
   Drainage. Wilson v. Sanitary District of Chicago, 133 Ill. 443.

C H A P T E R II.

TAXATION FOR ROADS BY INDEPENDENT BOARDS.

The economic and social importance of roads is recognized by civilized peoples. Indeed one has said that the character of a nation's roads is a good test of its civilization.[1] Nevertheles it holds true in most of the highly civilized countries, and most of all in our own, that much still remains to be done to secure good common roads. The principal reason for this comparative neglect of our roads is to be found in the astonishing growth of the railway systems and canals. These have rendered unnecessary the long and expensive roads which the ancients found it necessary to construct for military purposes. Although the importance of the common roads has been overshadowed by the railroads, the public is fast beginning to realize that, good roads are of the utmost importance both economically and socially. This is evident with only a cursory investigation.

Good roads are particularly valuable to the farmer. (1) They furnish an opportunity to the farmer for higher prices by taking advantage of the market. This is often otherwise prevented by the almost impassable condition of the roads. (2) Good roads lessen the cost of transportation. At a convention of the highway commissioners of Illinois in Springfield it was estimated that good earth roads would reduce the cost of transportation one-half, while good permanent roads would reduce it to one-quarter of what it is now.[2] (3) The value of farm

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1. Jenks, Road Legislation for the American State. Page 9.
2. Thomas McClanoham, Paper on Road Drainage.

property would also be greatly increased. J.W.Jenks estimates that in Illinois good roads would add five dollars per acre to the value of the land, increasing the wealth of the State about $160,000,000. (4) But county property by no means obtains all the benefit of good roads. The prosperity of the towns and cities is also increased with the extension of the market into the country. In many cases staple products could be obtained at much lower prices. An illustration of the high prices resulting from poor roads occured in Springfield, Illinois a few years ago. During the period of wet weather in the spring, when the roads were bad, the price of hay went up to thirty dollars per ton, while on the farms a few miles from the city, hay could be obtained at ten dollars per ton, but was "embargoed" by the mud.[1] Not only is there an economic gain but the closer relations between town and country which would naturally follow would be a distinct social gain.

To better understand the general conditions of road legislation a brief examination of the methods of road administration and support is necessary. The present system of the elective township or district officers with independent supervision over road construction in their district, is directly traceable to earlier needs and conditions, and, although the needs of the present differ widely from the past, the same system remains in operation. The following are a few of the reasons why the present conditions still exist:-

1. Our early history required a system of independent units of administration.
2. The people as a whole have but little interest in perfecting the purely local system.
3. The conservative spirit of our people tends to make them retain

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1. Roy Stone, New Roads and Road Laws. Page 70.

their early policies.

4. Perhaps the chief reason is to be found in the strong bent of the people toward the retention of the local powers.[1]

In the administration of road affairs many defects are found. The lack of skilled road officials is too evident. Their general policy or, perhaps better, lack of policy is one of the chief causes of the unsatisfactory conditions. The need for skilled advice is seen in determining the character of the improvements and the rate of levy necessary to cover the expenses, and also in the intelligent expenditure of the funds thus secured, so that the result may not be a mere attempt at improvement with no permanent results.

Perhaps the most fundamental question in connection with road legislation is the determination and distribution of the burden of support for the roads. To enter into a discussion of the basis of taxation for road purposes, in this paper, would be entirely beside the point. But it can be safely assumed "that the burden should be distributed in accordance with the benefits received."[2]

With this in mind let us examine briefly the different systems of road support.

(1) Toll roads have been conducted on the principle that the travelers over the road were the recipients of the benefits and should pay for its support. But it is evident that others are also benefited; the bordering land owners and the inhabitants of cities receiving the traffic. It seems but just that they should help in the support.[3]

(2) Poll taxes can hardly be said to be entirely just, if judged from the basis of benefit received; although it must be admitted that benefit is received by each man paying the tax but certainly to no great-

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1. Jenks, Road Legislation for the American State. Pages 21-24.
2. ibid, page 29. 3. ibid.

er extent than by others who do not pay the tax. It is considered by most writers as a poor form of tax - Mr.Ely characterizing it as "unworthy of a civilized nation in the nineteenth century."[1] (3) From the stand point of justice the general property tax seems the best form of tax for road support,when property assessed and apportioned to the various units of territory. In connection with the general property tax the justice of the tax on adjacent property is often questioned. "There can be no question that the adjoining property is benefited and there seems no injustice in such a levy if it reaches all benefited."[2] It is a good plan in that it stimulates the farmers to secure good roads,particularly in combination with county or state aid. Another form of tax might also be justified on the basis of benefit received - that is,a special tax or levy on industries, whose use of the roads causes an abnormal wear. The revenue from this tax should of course,always be spent on the roads thus used. These systems include the principal methods of road support.

During recent years there has been a growing recognition of the importance of good roads and of the need for a better system of road support,County,State and National. Good Road Leagues have been formed. Old laws have been amended,new laws passed,and in one case the Constitution was amended to permit a more efficient road law to be put in operation.[3] Illinois has been slow to follow in this forward movement and at present retains a rather inefficient system of road administration and support.

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1. Ely,Taxation in American Cities and Towns. Page 209.
2. Jenks,Road Legislation. Page 31.
3. Stone,New Roads and Road Laws. Page 1.

It is my purpose in this paper to trace the history of taxation for road support in Illinois,noting briefly the steps from 1818 to the introduction of the Highway Commission as an independent taxing body in 1849:then in more detail showing the steps which led up to the law now in operation. With this purpose in view I have divided this later period into two parts,one dealing with the laws which have been passed affecting roads under township organization and the other in counties not under this form of organization. Under each I have attempted to give a history of the taxing body and the two forms of tax levied - "the road tax" and "the road and bridge tax". Then I give a short comparison of the systems of road support in operation in other states,and lastly state some of the suggested plans of reform which seem to promise the greatest success in Illinois.

Very unfortunately neither the newspapers,general histories of Illinois nor the special county histories give much information concerning the causes leading to the various changes in the road laws. Nor can any idea be gained as to the amount of the tax for the maintenance of roads,raised by the various counties,prior to 1898,and then only in reference to the road and bridge tax. This investigation must necessarily be little more than a history of the various changes in the administrative system,with the maximum levy allowable by law,and with but little attempt to show the reasons for the changes. In my study I have not dealt with the poll tax,nor the collection of the general property road tax when it is collected by the general assessor: as the latter forms merely a part of the collection of the general property tax.

TAXATION FOR ROADS, 1818 - 1849.

The Ordinance of 1787 made no definite provision for roads, but the inhabitants were allowed to vote taxes to meet the general expenses. The first step toward providing a system of roads for Illinois was made by Congress in the enabling act of April, 1818. In this act provision was made for the establishment of roads leading to the State. Two-thirds of the net proceeds resulting from five percent of the sales of government land was to be expended for this purpose under the direction of Congress.[1]

The Constitution of 1818 made no definite provision regarding roads, but provided that each county should elect a body of three commissioners, their term of office and duties being determined by law, and whose duty it should be to attend to the affairs of the county.[2]

The County Commissioners Court, along with its other duties, had absolute control of all public roads, levying the taxes for the construction of new roads and the maintenance of the old. The details of their powers were regulated by various laws.

No law was passed governing roads until 1825, when a very good road law was passed by the Legislature. Besides the usual poll tax, provision was made for a general property road tax. The maximum rate of levy was $1.50 for every $100.00 worth of taxable property in the county as determined from the assessors list of the previous year. The tax was to be levied at the March session of the Board of County Commissioners. When the rate of levy had been determined, it became the county clerk's duty to set down in an additional column in the

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1. Enabling Act of 1818, Section 6, part 3.
2. Constitution of Illinois, 1818. Schedule, Section 4.

tax records: (1) The name of the persons in a given road district, (2) The amount of tax assessed against each person. Copies giving these facts were to be provided by the clerk for each supervisor. The tax was supposed to be pail in labor, the wages for each day's work to be determined by the county.

For purposes of working out the tax the Commissioners divided the county into road districts and appointed a supervisor for each district. The position of supervisor was made compulsory, and refusal to accept made the appointee liable to a ten dollar fine. It was the duty of the supervisor to take the list prepared by the county clerk, and warn the taxpayers to work out their tax at a fixed time and place, credit those who worked, and by the first Monday in December turn over all funds collected, with a written statement, to the County Commissioners. The payment of the road tax was made compulsory and any delinquent taxpayer could be fined, or committed to jail for not less than twenty-four hours, if he possessed no property.[1]

This first road law proved a model for many succeeding years; the chief administrative features meeting with few changes prior to 1848, -the organization of the districts, the appointment of the supervisors and their duties remaining much the same. But in many respects this act was far in advance of its time. Indeed it seems that the Legislature of 1825 was remarkably farsighted and progressive. At this same session a very good measure was passed providing for local taxation in support of schools.

The Legislature of 1827, however, took a backward step in withdrawing the right of the County Commissioners to levy a property tax, thus

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1. Laws of Illinois, 1825. Page 27.

leaving only the poll tax. Perhaps one reason for this change was the remarkably high rate of levy allowed, which was considered rather dangerous in view of the unsettled conditions of the county and the scarcity of money. The powers of the supervisors were limited and any expenditures above ten dollars were to be reported to the County Commissioners and the funds would be provided from the treasurer's office.[1]

Population was too small and wealth too insignificant to enable the various counties to construct the necessary improvements, so special appropriations were made by the State to enable the counties to build certain bridges. It was the duty of the County Commissioners of the counties receiving aid to select the site and let out the contract to the lowest bidder. After their construction, the bridges were kept in repair out of the county road tax.[2] In many cases, particularly in the laying out of state roads, a special commission was appointed by act of the Legislature, and the entire expense of laying out the road and paying the wages of the commissioners was often borne by the counties through which the road passed, while in many cases state aid was given each county.

In 1829 the county court was allowed to lay a tax on all ferries in the county, the proceeds from which could be spent upon the improvement of any roads within a radius of ten miles. The tax was, however, limited to three hundred dollars as the maximum amount, which could be collected in one year.

The road law of 1827 proved very unsatisfactory. It was found

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1. Laws of Illinois, 1827. Page 47.
2. Revised Statutes of 1827, page 62.

practically impossible to keep the roads in a passable condition with only the poll tax.[1] So in 1831 it was thought best to so amend the law of 1827 as to permit, in addition to the poll tax, a general property tax of one day's labor for every one hundred dollars worth of property. The tax was intended primarily to be paid in labor, a cash payment of fifty cents to be accepted by the supervisor as equivalent to a day's work. From the passage of this amendment to the present, the law has provided for some property tax for roads, to be paid either in cash or in labor. This act shows an awakening interest in the importance of roads, while the rate provided for is much more reasonable than the one dollar and fifty cents per one hundred dollars worth of property permitted under the act of 1825.

In 1835 a new act was passed repealing all previous road laws. However the only important changes were as follows:

(1) The commissioners were permitted to levy a road tax on all real estate of the county equal to one-half the State tax collected in the county, or a tax not greater than twenty-five cents on every one hundred dollars worth of personal property. But only one of these provisions could be usedin a given year.

(2) For the first time provision was made for the collection of the road tax from the delinquint taxpayer. The names of all taxpayers who had been duly warned and given an opportunity to work out their tax at the fixed rate of seventy-five cents per day, but had neglected to do so, were to be handed to the County Commissioners before the

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1. Laws of Illinois, 1829. Page 20.

first of December of the current year. The delinquent tax thus reported by the supervisors was to be collected by the regular county collector,as entered in the collectors books by the county clerk. The sums thus collected were to be paid over to the county treasurer to be held by him as a special fund for road purposes.[1] Previous to this, a civil suit instituted by the supervisor in the name of the county was the only means of forcing the payment of the tax.

The following year,1836,the act of 1835 was amended to provide that the sum expended by the county on its roads during any was not to exceed one third of the county receipts of the previous year. It further provided that the delinquent list should be returned by the supervisors by the first day of November and not December as the law of 1835 provided.[2]

The law of 1835 was again amended in 1837 and the daily wages for discharge of road tax was raised to one dollar per day. All supervisors were required to furnish the County Commissioners with a list of the taxable persons and the property owned by each person in their district,- said list to be used by the county clerks in entering the road tax on the collectors books. Provision was made for a special commission to be appointed by the county board to locate any new roads or to change old ones.[3]

In 1841 all previous acts were repealed and a new road law placed on the statute books,which allowed the county board to impose at its March session a much higher poll tax (one to five days). At

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1. Laws of Illinois,1835. Page 129.
2. ibid,page 89. Revised Statutes,1845.
3. ibid,page 604.

the same time the act reduced the tax on property to ten cents on one hundred dollars as a maximum rate, and made it payable in cash or labor at the option of the taxpayer. All delinquent taxes were to be collected as under former laws but the supervisors were given two months longer to collect the taxes before handing in the delinquent list. A written report was also required from all supervisors which must be handed in to the county board along with the funds collected. These funds along with the delinquent tax was kept by the county treasurer as a special road fund.[1] This law, with amendments which did not materially change its effect, remained in force until the great change in the road law in 1872.

In 1843 the amount which the county board could assess for county purposes was limited to fifty cents on the one hundred dollars and not over one-half of this amount could be appropriated for roads. This tax was payable in labor under the same regulations provided for in previous acts.[2]

In 1845 the maximum rate of levy on all taxable property was lowered to twenty cents on the one hundred dollars while more exact provisions were made for the entering of the levy in the collector's books. After the County Commissioners had determined the rate, their clerk was to make out a list of the property owners from the assessor's list of the previous year, collecting together all property owned in one district and listing it opposite the name of each property

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1. Laws of Illinois, 1841. Page 237.
2. ibid, 1843. Page 111.

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1. Laws of Illinois, 1845. Page 79.
2. Constitution of Illinois, 1848. Art. V, section 19.

of the proceedings of the Board of Supervisors and reports of county officers.

Yours respectfully,

HOMER J. TICE,

Chairman.

owner, and also the amount of road tax assessed against him. The sheriff was to hand a copy of this to each of the supervisors, who notified the taxpayers to work out their taxes at seventy-five cents per day. Any person who willfully tried to evade doing a full day's labor could be sued by the supervisor and the value of the work collected with a twenty-five percent increase.[1]

In 1847 the act of 1841 was amended for the third time. But one important change was made. All cities and incorporated towns were relieved of the road tax, in case their charters provided for a special tax for roads. But no exception was made of unincorporated villages. Such, then in brief, is the history of road taxation up to the adoption of the Constitution of 1848.

ROAD TAXATION IN COUNTIES UNDER TOWNSHIP ORGANIZATION FROM 1849 - 1909.

The principal provisions of the Constitution of 1848 affecting taxation for road support may be summarized as follows:- (1) all powers which had formerly belonged to the County Commissioners were transferred to a body known as the county court. This body was composedof a county judge elected by the voters of the county for a term of four years; two justices of the peace also elected by the people; and a clerk of the county court who was ex-officio recorder in lieu of the county clerk, and was to be elected quadrennially.[2]
(2) Laws were to be passed by the General Assembly providing for levying taxes by valuation so that every person or corporation should

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1. Laws of Illinois, 1845. Page 79.
2. Constitution of Illinois, 1848. Art.V, section 19.

pay atax in proportion to the value of his or her property.[1]

(3) Provision was made for the passage,by the Assembly,of a general law providing for township organization under which a county might organize whenever a majority of the voters so decided.[2]

(4) The corporate authorities of townships were vested with power to assess and collect taxes for corporate purposes,such taxes to be uniform with respect to persons and property within the jurisdiction of the body imposing the same.[3]

The changes made in the Constitution of 1870,differing from the provisions of 1848 in relation to road taxation are as follows:

(1) The county authority was given to a board of county commissioners three in number who were to be elected for a term of three years,one retiring each year.[4] The county affairs of Cook County,however,were to be managed by a board of commissioners of fifteen persons,ten of whom should be elected from the city of Chicago,five from the townships outside of said city,and in such manner as should be provided by law.[5]

(2) Seventy-five cents per one hundred dollars valuation was made the limit of the levy of taxes in a county for one year,unless more is permitted by special vote of the people.[6]

(3) The amount of indebtedness permitted to any township,is five percent of the value of the taxable property therein as determined by the last assessment for thr State and county taxes. Provision must

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1. Constitution of Illinois,1848. Art.IX,section 2.
2. ibid,Art.VII,section 6.
3. ibid,Art.IX,section 9.
4. ibid,1870.Art.X,section 6.
5. ibid,1870.Art.X,section 7.
6. ibid,1870.Art.XI,section 8.

also be made for the payment of the interest and the principal of the debt.[1]

(4) The contracting of convict labor was made unconstitutional by an amendment passed in 1886, which prevents the possibility of using convict labor for road construction.[2]

The system of township organization had its origin in the New England States, and as the people of those states migrated westward it was carried along with them. Its practical object is to bring the local affairs of the county into immediate control of the people so that every voter can assume a direct responsibility. Previous to the Constitution of 1848 the greater proportion of the local affairs of the county were regulated by three commissioners who constituted the county board. But during the period ending with the Convention of 1847 a large proportion of the population of Illinois, particularly in the northern part, were either settlers from New England or their descendants. As a result of this fact, agitation was begun for a greater degree of self government, under the influence of this spirit the Constitutional provision was passed, and in the following year the General Assembly passed an act providing for township organization.[3]

—HIGHWAY COMMISSION.

The township organization act of 1849 provided for a commission of three, who were to have charge of all road affairs in the township. This highway commission was to assume the control of all roads which

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1. Constitution of Illinois, 1870. Art. IX, section 10.
2. ibid, Art. X, section 12.
3. Haines, Township Laws, 1872. Page 3.

had been vested in the county board. They were to be elected at the regular town meeting with the other town officers. Prior to 1861 the tenure of office was one year, three new commissioners being elected annually. The Township Organization Act of that year (1861) provided "that at the first meeting in each town after the township system had been adopted, three commissioners of highway shall be elected, one for one year, one for two and one for three years."[1] This provision has remained in force to the present.

The law declares "no person can be eligible to the office of Highway commissioner, unless he shall have been one year a resident in such town.[2] After the returns of the town election, the town clerk must notify the person elected as commissioner: such notice to be within ten days after the election. In case of refusal to serve, a fine of twenty-five dollars must be paid. Before entering the duties of his office the usual oath is required.[3] Any vacancies occuring were filled by the town auditors prior to 1851. But from that date to the present, the remaining highway commissioners appoint some one to hold the office until the next general election.[4]

In 1854 definite arrangements were made for organizing the commission. One of their number was to be chosen treasurer and was to handle all their funds. In guarantee for the faithful discharge of his duties as treasurer, "and that he will honestly and faithfully pay over to the order of the commissioners of highway all money that

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1. Laws of Illinois, 1861. Page 220.
2. ibid, 1849. Page 195.
3. ibid, page 195-197.
4. ibid, 1851. Page 65.

may come into his hands",he was required to file a bond. The bond was to be made payable to the supervisor - its amount and approval being left to the supervisor and the town clerk. After the bond has been approved it is to be filed in the town clerks office.[1] In 1872 the amount of the treasurer's bond was fixed at double the amount that would probably come into his hands during the year,and was made payable to the people of the State of Illinois,with sufficient security to be fixed by the county clerk.[2] In 1883 still further changes were made,- the law providing for the choice of one of the commissioners as president and one as treasurer: the latter's bond must have two or more land holders as security. The town clerk is made ex-officio clerk and is required to keep a record of all transfers in a special book.[3]

The treasurer of the Highway commission was allowed to retain not over two percent of all funds that passed through his hands,according to the law of 1872. The law of 1873 did not provide for a commission, but the act of 1875 again permitted a commission on all money passing through the treasurer's hands.[4] The present law provides that the exact percentage of the fees be determined by the highway commission, but the amount is limited to two percent.

Each township in the State is divided into three sub-districts, from each of which a highway commissioner is elected. This division is made annually,if necessary,by the supervisor,and the commissioners

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1. Laws of Illinois,1861. Page 246.
2. ibid,1872. Page 681.
3. ibid,1883. Page 140.
4. Town of LaSalle v. Blanchard,1 Ill.App.635.

of highways together with the town clerk. A plat must be made of the division and filed with the town clerk ten days previous to the annual town meeting. "The purpose of such division is to have the different parties of each township represented by a commissioner of highways who is a resident of such district."[1] Each district is known as road commissioners district number one,two,or three. "The road work in a district is under the particular commissioner of that district, so that aside from the allotment of funds to the districts the highway commissioners usually have little to do with road interests outside of their own districts. Although a corporate unit,the commissioners carry on the work as three units."[2]

Whenever the labor system is adopted by a township,it is the duty of the highway commissioner to divide their town into road districts. The law provided that they "shall divide the town as they may deem convenient by writing under their hands to be lodged with the town clerk,and by him entered in the town book."[3] Such division is to be made annually,if they shall think necessary,but in all cases it must be made at least ten days before the annual town meeting. The law of 1883 makes no provision for the formation of road districts,but recognizes their existence.[4]

The highway commission is a quasi-corporate body and in the sixty years of its history a number of supreme court decisions,have

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1. Haines,Township Laws,1904. Page 38.
2. Report of Illinois Highway Commission.Vol.I,page 6.
3. Laws of Illinois,1849. Page 212.
4. 119 Ill.201.

been made limiting and defining its powers. The following are a few of the more important provisions. The commissioners are a quasi-corporation[1] and their official acts must be recorded and proved by record[2] alone. A majority is sufficient to act unless otherwise provided by law.[3] They must be sued in their official names[4] and execution cannot be awarded against them.[5] Highway commissioners have no powers except those conferred on them by statute.[6] Failure to organize as a board of commissioners is equivalent to the creation of a vacancy.[7]

ROAD TAX 1849 - 1909.

After completing their organization the law provides that the highway commission should proceed to estimate the funds necessary for road improvement, considering all expenses prior to 1873, and from that period for making and repairing roads. The funds necessary to meet these demands are raised by means of two distinct taxes:[8] The road tax and the poll tax, although the rates of both are usually determined at the same meeting. The poll tax has always been a possible source of revenue for road purposes with the exception of the two years from 1877 to 1879, when a poll tax was not lawful. At present

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1. Lange v. Soffel, 33 Ill.App.624.
   Town of Lancaster v. Baumgarten, 41 Ill.254.
2. People ex rel etc.v. Finley, 97 Ill.App.214.
3. Com.of Highways of town of Lancaster v. Baumgarten, 41 Ill.254.
4. Lange v. Soffel, 33 Ill.App.624.
5. ibid.
6. Ohio C.M.R.Co.v. People ex rel. Colven, County Collector, 143 Ill.648.
7. People ex rel. Dennison v. Spencer, 101 Ill.App.61.
8. 43 Ill.23.

the law provides that the poll tax may be dropped by popular vote, where the cash system is adopted.[1] Under the different road laws the dates of the first meeting has changed. The following table gives the dates of the first meeting :

YEARS.	TIME OF MEETING.	PLACE.
1849 - 1851	not fixed	not fixed
1851 - 1872	within eighteen days after election.	town clerk's office
1872 - 1873	before the Tuesday preceeding the annual meeting of the board of supervisors.	town clerk's office.
1873 - 1909	Tuesday after the September meeting.	town clerk's office.

From 1848 to the present time all property both personal and real has been taxed for roads, with the exception of the period from 1851 to 1861 when only real estate was taxable.[2] In 1883 all railroad property known as "railroad track" and "rolling stock" was included.[3]

The valuation of property as listed in the assessor's roll of the previous year was used by the highway commission in determining the rate of levy prior to 1883, since then the equalized valuation is used.[4] The Supreme Court has decided in several cases, however, that the highway commission cannot levy a tax for road purposes inside the

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1. Laws of Illinois, 1895. Page 310.
2. ibid, 1851. Page 66.
3. Hurd, Revised Statutes of Illinois, 1903. Page 1601.
4. ibid, page 1601.

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1. Beety v. Keer, 123 Ill. 659.
   25 Ill. 557.
   144 Ill. 458.

of the proceedings of the Board of Supervisors and reports of county officers.

Yours respectfully,

HOMER J. TICE,

Chairman.

corporate limits of any town whose charter forbids such tax to be assessed.[1]

In determining the annual funds required to maintain the roads various expenses have been included by different laws. From 1848 to 1873 all possible expenses for repair work, construction of new roads and bridges, payment of all damages for ditching and drainage and all other expenses were included in this first general levy. But in 1873 road expenses were divided into two parts and met by two distinct annual property taxes: one the "road tax" for making and repairing roads only, payable in labor, the other the "road and bridge tax" to meet all remaining expenses, and made payable in cash only. The reason for this change was to provide a means of payment for all bills demanding a cash settlement, as well as to provide a means of payment of the salaries of road officials, damages and purchase of material for road construction. The system of the two taxes was intended primarily to be used under a labor system. The adoption of the cash system as provided for in each act did not change the determination of the levy. The law of 1883, however, provided primarily for a cash system, with a special determination of the levy, while if the labor system was adopted, the old form of the two distinct taxes - the "road tax" and the "road and bridge tax" - was continued much as before.

LABOR SYSTEM.

The determination of the levy, as provided by the first township organization act, is particularly interesting. The support for the

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1. Beety v. Keer, 123 Ill. 659.
   25 Ill. 557.
   144 Ill. 458.

roads was to come from a combination of the poll tax and general property labor tax. The number of days work required from each person being estimated in the following manner:

(1) The entire number of days work required was not to exceed three times the number of taxable inhabitants.

(2) Every male citizen above twenty-one years of age was to be required to work two days.

(3) The tax on non-residents' lands was not to be less than one day's labor for each three hundred dollars worth of property owned, the valuation to be determined by the highway commission from the assessor's report of the previous year.

(4) The remainder of the work was to be apportioned upon the real and personal estate of each inhabitant, the valuation to be determined as in the case of non-residents.[1]

But the assessment of statute labor cannot be considered as a regular tax.[2] So in reality the road tax did not properly begin until after 1861; when the township organization act changed the tax to a levy of money, instead of statute labor. The annual rate of levy which the highway commissioners were allowed to use has always been limited. The following table gives the maximum rates of levy for the "road tax" under the different road laws.

YEAR.	MAXIMUM RATE.		
1849	non-residents,	$.62 1/2	on $300.00
1851		$.20 on	$100.00
1861		$.20 on	$100.00

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1. Laws of Illinois, 1849. Page 49.
2. 4 Ill.App.254.
   29 Ill. R. 495.
   ~~30 Ill. R.451.~~

YEAR.	MAXIMUM RATE.
1867	
1869	
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1. Laws of Illinois,1849. Page 214.

ILLINOIS COMMITTEE

COUNTY AND TOWNSHIP ORGANIZATION

Roads, Highways and Bridges

FORTY-SEVENTH GENERAL ASSEMBLY

SPRINGFIELD

July 1912.

Dear Sir:

The Joint Committee of the 47th General Assembly, appointed to amend, revise and re-codify the laws on county and township organization, requests your co-operation in securing information to aid them in this work by answering the enclosed list of inquiries. Your prompt reply will greatly assist the work of the Committee.

Please send with your reply copies of any printed reports

YEAR.		MAXIMUM RATE.
1867		$.40 on $100.00
1869		$.40 on $100.00
1872		$.40 on $100.00
1873		$.40 on $100.00
1877		$.40 on $100.00
1879		$.40 on $100.00
1883	labor system.	$.40 on $100.00
	cash system.	$.60 on $100.00
	a.additional by vote to auditors.	$.40 on $100.00
	b.additional for damages.	$.20 on $100.00

The system of the preparation and filing of the tax lists has frequently been changed by the various road laws. The law of 1849 provided that after the rate of levy had been determined, the commissioners were to prepare the necessary lists, giving:)1) A description of the non-resident lands and the number of days labor assessed against each. (2) The name of the taxpayers in each district and the number of days work assessed against each. The poll tax and the general property tax were not to be kept separate. The lists thus prepared were signed by the commissioners and filed with the town clerk. The town clerk was required to make a sufficient number of copies and cause one to be delivered to each of the overseers. He was also required to post a notice on the door of the building where the commissioners met, giving the number of days labor assessed on eacg three hundred dollars worth of non-resident property.[1]

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1. Laws of Illinois, 1849. Page 214.

The road laws of 1851 have provaded that the property road tax be listed separately from the poll tax. The list giving a description of each tract of land, the name of the owner, if known, with the valuation thereof as taken from the assessor's roll of the previous year, and the amount of the road tax assessed thereon in a separate column.[1] In 1879 the law provided in listing the property in the town that the property contained in each road district be grouped together and that the names of the personal property taxpayers be arranged in alphabetical order.[2] The lists were to be filed in the town clerk's office as before, and copies were to be made by the clerk for the use of the overseers. In 1883 railroad property was incluled in the lists. The method of filing describedabove is adopted whenever the labor system is used, and was used in all cases prior to 1872 even if the cash system had been adopted.

The benefit a township may receive from its road tax depends very largely upon the system of collection followed. If the labor system is followed, the tax is expended as fast as collected, under the supervision of the untrained overseers, and it is safe to say that one-half of the tax is lost,[3] to say nothing of the poor roads which result. In case the cash system is followed a trained road engineer may be hired, who will be able to make use of the tax in an economic and systematic manner.

Since 1873 the law has made the road tax a purely rural tax. The law of 1873 provided that the road tax collested on "property lying within any incorporated village, town or city in which the

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1. Laws of Illinois, 1851. Page 66.
2. ibid, 1879. Page 263.
3. Report of Illinois Farmer's Institute. Vol.I, page 259.

streets and alleys are under the care of the corporation, shall be paid over to the treasurer of such village, town or city to be appropriated for the improvement of roads, streets and bridges under the direction of the corporate authorities.[1] In 1877 the further provision was added that "when any of said tax is expended beyond the limits of said village, town or city, it shall be with the consent of the road commissioners of the township",[2] while the law of 1879 provided that "the authorities of such incorporated town, city or village may at any time direct the collector not to collect the tax, so levied within the limits of such incorporated town, city or village."[3]

Whenever the labor system is used in a township, the town is divided into road districts. Prior to 1883, at the annual town meeting an overseer was elected for each road district, the tenure of office being one year. Refusal to serve resulted in a penalty of ten dollars. In 1883 the office was made appointive. Any vacancy is filled by the commissioners of highway.

The duties of the overseers of each town are as follows:
First: To repair and keep in order all the highways in their district.
Second: To warn all persons from whom road labor is due to work on the highways at such times and places within their respective districts as they may think proper. The overseers may contract with persons to perform a certain amount of labor on any road or bridge in their town or road district in payment of their tax. And if the work

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1. Hurd, Revised Statutes of Illinois, 1874. Page 916.
2. Laws of Illinois, 1877. Page 196.
3. ibid, 1879. Page 262.

be done within the time when the money should have been paid, the overseer shall give such person a receipt for such labor done or performed.

Third: To collect all fines and commutation money.

Fourth: To deliver to the supervisor of his town, and in Cook County to the county board, a list containing the land and personal property road tax, with the word "paid" written after the description of property on which the tax has been paid, and sworn to before the supervisors of the town. The courts have hell that the taxpayer must be given due warning of the time and place at which he can work out his road tax before he can be returnel as a delinquent taxpayer. The law of 1849 provided that in all cases where the addresses of owners or agents of non-resident lands were unknown the posting of the general notice was held to be due notification.[1]

The following is a table giving the amounts credited to a taxpayer for a day's work during the different years.

YEARS.	WAGES.	HOURS PER DAY.
1849 - 1851	62 1/2 cts.	8 hours.
1851 - 1872	75 cts.	8 hours.
1872 - 1873	cash system.	
1873 - 1877	$1.50	8 hours.
1877 - 1879	cash system.	
1879 - 1909	$1.25	8 hours.

The law of 1849 required the delinquent list to be returned by the overseer to the supervisor of the town before the first day of

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1. Laws of Illinois, 1849. Page 215.

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1. Laws of Illinois,1848. Page 127.
2. Wabash R.R.Co. v. People,138 Ill.303.
   138 Ill.316.
3. Laws of Illinois,1869. Page 406.

of the proceedings of the Board of Supervisors and reports of county officers.

Yours respectfully,

HOMER J. TICE,

Chairman.

October.[1] The laws from 1851 to the present have provided that the list be returned five days before the annual meeting of the board of supervisors.

The supervisors of each town are to lay these lists before the board of supervisors of the county - in Cook County before the county board - who levy the delinquent tax on the lands returned and cause it to be collected the same as other county taxes. When collected it is paid over to the commissioners of highways of the town, except such portions of the tax as the law provides to be paid to the authorities of incorporated cities. It is the duty of the county board to enter the tax exactly as returned. When there is no record, if the clerk has entered the tax, the presumption is that the board has acted,[2] for the validity of the tax depends alone on the act of the commission of highways.

CASH SYSTEM.

The labor system was the only system of road improvement used prior to 1869. Taxpayers had always been given the right to pay the overseer the cash or work it out at the rate of wages fixed by law. But in 1869, a law was passed providing that any township could adopt the cash system by a majority vote. The money so collected was to be expended by the highway commission or by such agents as they might see fit to hire.[3] From that date to the present the voters of any

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1. Laws of Illinois, 1848. Page 127.
2. Wabash R.R.Co. v. People, 138 Ill.303.
   138 Ill.316.
3. Laws of Illinois, 1869. Page 406.

township have possessed the option of paying their road tax either in labor or in cash, with the exception of the three years from 1872 - 1873 and from 1877 - 1879, when only payment in cash was lawful.

Prior to 1883 the property assessed and the determination of the rate of levy remained the same whether the cash system was adopted or not, the chief difference being in the filing of the lists and the collection of the tax. In that year beside the regular levy of sixty cents on the one hundred dollars worth of property valuation in the town, an additional levy could be made, if in the opinion of the commissioners some contingency demanded it. The additional sum needed was to be certified to the board of the town auditors and assessor in joint session with the highway commissioners and if in the opinion of a majority of this entire board given in writing an additional "levy was needed", it could be made to any sum not exceeding forty cents on each one hundred dollars of taxable property in the town.[1] In 1901 this was amended so as to provide that the additional levy could be made for certain specified purposes only and should the commissioners use any of the funds for purposes not specified, they were to be deemed guilty to have illegally appropriated the same and were to be liable accordingly.[2] But in 1903 this amendment was repealed and the law at present stands as it did in 1883.[3]

The law of 1883 also provided a special tax for the payment of "damages agreed upon for laying, widening, altering or vacating roads

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1. Laws of Illinois, 1883. Page 163.
2. ibid, 1901. Page 274.
3. ibid, 1903. Page 303.

or for ditching to drain roads".[1] This tax was to be included with the road tax,but was in addition to it,and when collected was held as a special fund by the treasurer of the highway commissioners.

The system of filing under the cash system remained the same as when labor was used until 1872. From 1872 to the present time whenever the cash plan is adopted the tax is entered on the collector's book with the other township taxes. The law of 1872 provided that after the highway commission had annually ascertained the amount of money to be raised on all property for highway purposes they should give to the "supervisor of the township and in Cook County to the county board a statement of the amount necessary to be raised, signed by a majority of said commissioners on or before the Tuesday preceeding the annual September meeting of the board of supervisors, who shall cause the same to be submitted to their action of such September meeting of said board",and that "according to the amount certified as aforesaid the county clerk,when making out the tax books of state and county taxes for the collector,shall extend the necessary tax in a separate column against each taxpayer's name or taxable property as other taxes are extended.[2]

It is the duty of the county board to cause to be entered the amounts as returned by the highway commissioners,[3] as the validity of the tax depends upon their act alone.[4] The taxes are levied by the highway commissioners and not by the supervisors,under either the

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1. Laws of Illinois,1872. Page 684.
2. ibid,
3. 138 Ill.316.
4. 138 Ill.316.

cash or labor system.[1] If there is no record showing that the supervisors have ordered the county clerk to enter the tax, the presumption is that the board has acted, if the clerk has entered the tax.[2]

It is also the duty of the county clerk to make out and deliver on demand to the treasurer of the highway commissioners, a certificate of the aggregate amount of the tax levied and the amount in each district as entered on the tax books.[3] As the laws of 1872 made no provision for road districts, taxes were not grouped by districts. The provisions in the road law of 1877 are almost identical with those of 1872.[4]

When the cash system was adopted by popular vote as made possible in the acts of 1873[5] and 1879[6] very nearly the same plan of filing was used, the exception being that the county clerk in entering the taxes upon the tax book designated to what districts the tax belonged.[7] The payment of the tax on railroad property provided for under the laws of 1879 and 1883, is not distributed by the county clerk in each road district, but only among the towns of the county. It is the duty of the highway commissioners to apportion the tax to each district in proportion to the number of feet of track in said district.[8]

The road tax when collected under the road laws of 1872 and

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1. Wabash R.R.Co. v. People, 138 Ill.303.
2. ibid.
3. Laws of Illinois, 1872. Page 684.
4. ibid, 1877. Page 197.
5. Hurd, Revised Statutes of Illinois, 1874. Page 921.
6. Laws of Illinois, 1879. Page 269.
7. Hurd, Revised Statutes of Illinois, 1874. Page 921.
   The town clerk of each town on or before the first day of September furnishes to the county clerk a certified plat of the road districts in his town and annually thereafter if the districts are changed.
8. ~~O.& M.R.R.Co. v. People, 119 Ill.201.~~

1877 was paid to the treasurer of the highway commission with no stipulation as to the part of the township in which the funds should be expended. T [illegible] that the tax should be paid [illegible] funds from each [illegible] presented from [illegible] where the tax [illegible] towns and citi [illegible] the law provid [illegible] to be expended [illegible] this provision [illegible] city treasurer [illegible] expended beyor [illegible] the "road com [illegible] inhabitants t [illegible]

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Road and Bridge Tax

ASSESSMENT.--

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1. Laws of [illegible]
2. Beety v. Keer, 123 Ill.659.
   25 Ill.557.
   144 Ill.458.

ILLINOIS COMMITTEE

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Roads, Highways and Bridges

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1877 was paid to the treasurer of the highway commission with no stipulation as to the part of the township in which the funds should be expended. The road laws of 1873 and 1879 provided that the tax should be paid in as fast as it was collected,by the collector. The funds from each district were to be used for the payment of all bills presented from that district. The above,however,only holds true where the tax has been collected outside the corporate limits of towns and cities. Where it is collected inside the corporate limits the law provides that the tax be paid over to the county treasurer, to be expended by the city in the improvement of its streets. In 1889 this provision was changed so that one-half of the tax went to the city treasurer,of incorporated towns and when any of the funds were expended beyond the corporate limits it must be with the consent of the "road commissioners of the town". In all cities above 35,000 inhabitants the entire sum collected is paid to the city treasurer.[1]

ROAD AND BRIDGE TAX.
1873 - 1909.

ASSESSMENT.--

The road and bridge tax is determined by the highway commission "on or before the Tuesday next preceeding the annual meeting of the county board in September",and is assessed on all real,personal and railroad property in the town. Property in the corporate limits of of cities whose charters forbid such tax is alone exempted from the levy.[2] Only one levy of the road and bridge tax may be made in each

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1. Laws of Illinois,1889. Page 228.
2. Beety v. Keer,123 Ill.659.
   25 Ill.557.
   144 Ill.458.

year[1] and that must be made at the time required by statute.[2] The determination of the rate of levy is based on the valuation according to the assessor's list of the previous year.[3]

The purpose of the tax is to provide funds for the following purposes: (1) For making and repairing bridges;(2) Payment of damages by reason of the opening,altering and laying out of new roads and ditches;(3) Purchase of necessary tools,implements and machinery for working roads;(4) The purchase of the necessary material for building and repairing roads and bridges;(5) The pay of the overseers of highways during the ensuing year;(6) For the payment of all outstanding orders drawn by the commissioners on their treasurer commencing on Tuesday next preceeding the annual meeting of the county board in September.[4]

The rate of levy has always been limited to forty cents on the one hundred dollars. All the laws providing for a road and bridge tax have made provision for an additional tax,when a larger sum is needed than can be raised by the levy of forty cents on the one hundred dollars. If it is decided that the additional tax will be needed,three public notices must be posted ten days before the annual meeting, stating that "a larger sum of money will be required for the purpose of constructing roads or bridges than can be realized from the real, personal and railroad tax authorized by law to be assessed by the

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1. 127 Ill.627.
2. 197 Ill.411.
3. 106 Ill.298.
4. Laws of Illinois,1883. Page 163.

commissioners. The town meeting may authorize an additional amount to be raised[1]",limited by the various laws as follows:

Law of 1873	not over $.60 on $100.00	
1877	none	
1879	not over $.40 on $100.00	
1883	not over $.40 on $100.00	

Afterthe highway commissioners have determined the rate of assessment,it becomes their duty to give a statement to the supervisor of the township - in Cook County to the county board -,"of the amount necessary to be raised and the rate percent of taxation,signed by said commissioners or a majority of them,on or before the Tuesday next preceeding the annual September meeting of the board of supervisors,or the county board of Cook County,who shall cause the same to to submitted to the said board for their action". The board of supervisora "cause the same to be extended by the county clerk as one tax on the collector's book of said town.[2]

The Supreme Court has decided that if the supervisors make no order against the extension of the tax,it is held to be sufficient to show their approval,[3] unless it appears that the statement was never properly before them.[4] Their filing the lists with the county clerk obligates him to extend the tax:[5] but he cannot extend the tax without their order,[6] merely as a ministerial act. The supervisors may order

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1. Laws of Illinois,1883. Page 163.
2. ibid,page 164.
3. 138 Ill.303.
4. 184 Ill.174.
5. 138 Ill.303.
6. 81 Ill.324.

the amounts not correctly levied not to be extended by the clerk,but to be returned to the commissioners for correction.[1] If no objection is made until after the collection,the collector's return is taken as prima-facie evidence of the legality of the tax and of its assessment and levy.[2]

The county clerk in extending the road and bridge tax on the collector's books uses the assessment list of the current year.[3] The laws of 1873,1879 and 1883 provide that the county clerk in extending the district road tax upon the tax books shall designate to what district the tax belongs.[4] In the law of 1877 the district is not designated in the extension of the tax.

COLLECTION.

The road and bridge tax is collected by the town collector in the same manner as other town and county taxes. The law of 1873 provided that all road and bridge taxes collected inside the corporate limits of any city or town should be handed over to the treasurer of the city to be expended by the city authorities.[5] The "road and bridge" tax and the "road tax" of 1877 were collected together as one tax.

The law further provided that all taxes collected inside the corporate limits of a city were to be paid to the city treasurer under

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1. 116 Ill.232.
2. 119 Ill.207.
3. 106 Ill.298.
4. Laws of Illinois,1883. Page 163.
   The county clerk obtains his knowledge of the road districts from the town clerk,who is required to furnish annually to the county clerk a certified plat of the several road districts of his town.
5. 79 Ill.597.

the provisions of the[1] acts of 1879 and 1883 all the road and bridge tax was to be p[illegible] the highway commissioners,[2] only one-half of the amount levied [illegible] treasurer. In [illegible] all cities of [illegible] and bridge tax [illegible] over to the c[illegible] when any tax [illegible] limits of the [illegible] road commissi[illegible]

Yours respectfully,
HOMER J. TICE,
Chairman.

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of the proceedings of the Board of Supervisors and reports of county officers.

1. 3 Ill.
2. 103 Ill.434.
3. Laws of Illinois,1903. Page 305.
4. ibid,1854. Page 27.
5. 21 Ill.605.

the provisions of the acts of 1879 and 1883[1] all the road and bridge tax was to be paid to the highway commissioners,[2] only one-half of the amount levied within the corporate limits being paid over to the city treasurer. In 1903,however,this clause was amended to provide that in all cities of thirty-five thousand inhabitants or upwards,all road and bridge taxes collected in the corporate limits were to be paid over to the city treasurer.[3] The laws from 1879 have provided that when any tax collected within the city limits is expended beyond the limits of the village or town it shall be with the consent of the road commissioners of the town.

COUNTY AID.

From 1854 to the present time there have always been provisions made for county action in building a township bridge,the cost of which was greater than could be met by the ordinary levy. The laws declare that when the highway commissioners decide that a higher levy will be required to build a bridge,which they may deem necessary,they shall lay the facts before the town auditors,whose duty it becomes to present the matter to the county board,and it shall be the duty of the said board to levy it on the taxable property of the town,to be collected with the other town taxes. No limit was made to this additional levy,[4] except that the additional tax could not be levied to build a bridge in an incorporated village.[5]

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1. 3 Ill.App.368.
2. 103 Ill.434.
3. Laws of Illinois,1903. Page 305.
4. ibid,1854. Page 27.
5. 21 Ill.605.

In 1872 the law was changed to provide that when the highway commissioners petition the county board for aid in building a township bridge, the county board may appropriate as much as they see fit from the county treasury to be expended under the direction of officers, whom they may appoint.[1] The road law of 1873 provided that the commissioners might petition for county aid when the cost of the proposed bridge exceeded what could be raised by ordinary road taxes. The action of the board was, however, optional.[2] In 1877 the law gave the board no discretion, but provided that they should furnish one-half the funds of the proposed bridge. The law of 1879 made the county aid of one-half compulsory, after it had been proved that the town had provided for the other half.[3] The construction of the bridge was to be under the joint control of the highway commission and two representatives for the county board. In 1883 the provisions governing county aid were again changed. The law of that year providedthat when the cost of any proposed bridge should exceed the sum which could be raised by a tax of "twenty cents on the one hundred dollars, and the levy of the road and bridge tax for two years last past in said town was for each year for the full amount of forty cents on each one hundred dollars allowed by law, and the major part is needed for the ordinary repair of roads and bridges, the commissioners can petition the county board for aid" and if the foregoing facts shall appear, the county board shall appropriate from the county treasury a sum sufficient to meet one-half the expenses, on condition that the

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1. Laws of Illinois, 1872. Page 649.
2. Revised Statutes of Illinois, 1874. Page 930.
3. Laws of Illinois, 1879. Page 281.
   110 Ill. 511.

town asking aid shall furnish the other half of the required amount.[1]

COUNTIES NOT UNDER TOWNSHIP ORGANIZATION

FROM 1849 - 1909.

In counties not adopting township organization the road law of 1845 remained in force with but few amendments until 1872. In that year the control of the roads in all counties was placed under supervision of highway commissioners. The county board was to appoint three temporary road commissioners who were to act until a highway commission could be elected by the people of the road district. The road district was to have the same limits as the congressional township or the district established for the election of school trustees. The powers of the commissioners and the assessment and collection of the tax did not differ materially from the conditions in counties under township organization.[2] The law of 1872 remained in force for only one year, when the control of roads in all counties not adopting township organization was again given to the county board, and the old road law of 1845 was practically reenacted, with but one very important exception. The road tax levied by the county board was collected with the other county taxes. No provision was made for working out the tax. If the labor system was used in working out the poll tax, the cash road tax was limited to a levy of forty cents on every one hundred dollars valuation of all taxable property, but if the poll taxes were collected in cash the road levy was limited to twenty

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1. Laws of Illinois, 1883. Page 142.
2. ibid, 1872. Page 684.

cents on the hundred dollars. This law of 1873 remained in force until the present road law of 1887 was adopted.

The law of 1887 provided for the division of the county into road districts corresponding to the congressional townships. Each district was to be designated by a number and was to be corporate unit. Three commissioners and a district clerk, who is ex-officio treasurer of the board, are elected on the first Tuesday in March, their term of office being so arranged that one commissioner shall thereafter be elected annually for a term of three years. But one general property tax can be annually assessed. The tax must be levied on the first Tuesday in September, and was limited to one dollar on the one hundred dollars; two years later the maximum rate was placed at fifty cents on the one hundred dollars.[1] All taxes to pay for damages which have been agreed upon are included in this levy. A statement of the rate of levy determined upon by the commissioners is given to the district clerk, whose duty it becomes to extend the tax upon the collector's books of each district. No mention is made of approval by the county board in order to make the tax legal.

As fast as the tax is collected by the regular collector, it is to be turned over to the district clerk. One-half of the taxcollected in incorporated villages is to be paid to the treasurer of the city to be used for road purposes in the town or road district as the city authorities may direct. But if any is expended beyond the limits of the city it must be with the consent of the road commissioners of the district.[2]

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1. Laws of Illinois, 1889. Page 230.
2. ibid, 1899. Page 233.

COUNTY AID.

The law of 1887 provided that whenever the commissioners may deem it necessary to build a bridge, the expense of which exceeds one hundred dollars, and when the maximum rate has been assessed, the county board has the option of aiding the district.[1] In 1891 the law was amended to provide that whenever any repair or construction work, the cost of which exceeds one hundred dollars, is needed in a district, on petition the county board is to estimate the cost and appropriate one-half the cost.[2]

SUMMARY OF PRESENT SYSTEM.

Under township organization the work on roads is paid for under two systems - the cash system and the labor system. When all the road taxes are collected in cash the highway commissioners estimate the amount of money required and the rate of tax necessary, which shall not exceed sixty centson the one hundred dollars, except in cases of special emergency when the highway commissioners may levy an additional forty cents with the consent of the town assessor and the board of auditors. All taxes for highway purposes are paid by the collector to the treasurer of the highway commissioners, and are in turn paid out by the treasurer on the order of the board. A poll tax of not less than one dollar and not to exceed two dollars may also be assessed for highway purposes.

If the labor system is adopted, two levies of taxes can be annually assessed by the highway commissioners; a labor tax of forty cents

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1. Laws of Illinois, 1887. Page 278.
2. ibid, 1891. Page 188.

may be assessed against all property and also a cash road and bridge tax not to exceed forty cents on the one hundred dollars. The township is then divided into road districts,overseers are appointed,and the persons assessed labor tax,may at their option,work out the road tax,or pay the same in money to the overseer. In addition to these taxes,county aid is permitted.

In counties which have not adopted township organization,but one cash tax can be annually assessed by the highway commissioners of the road district,and this tax is limited to fifty cents on the one hundred dollars. If the optional act of 1901 is adopted,the voters of the county may elect to place the road administration of the whole county under the board of county commissioners,doing away with the separate corporate districts,with highway commissioners in each. This law at present offers the only possible opportunity to place the road work on an economical basis,although it is more or less nullified in that it provides for the establishment of the labor system. But two counties have thus far adopted the system.

Beside the above regular taxes,additional funds for the building of macadam and gravel roads may be raised as follows by the townships and road districts: If the majority of the voters of a township or road district have so voted,a special tax may be levied,not to exceed one dollar on the one hundred dollars of all taxable property. The revenue thus secured can be spent only on one or two specified roads. The vote on the tax shall state for how many years it is to be levied,but in no case can it exceed five years.

The following table gives the total road and bridge tax collected in Illinois each year from 1898 to 1905,with the average rate of

levy of each year based on the equalized valuation of all property in the State.[1]

YEAR.	ROAD AND BRIDGE TAX.	LEVY
1898	$2,746,152.59	$.35 on $100.
1899	3,390,069.46	.31 on $100.
1900	2,780,890.84	.34 on 100.
1901	3,245,800.49	.33 on 100.
1902	3,381,588.56	.32 on 100.
1903	3,773,868.77	.35 on 100.
1904	3,881,063.26	.36 on 100.
1905	4,099,451.53	.37 on 100.

The first comprehensive statement concerning roads and road taxation in Illinois is found in the first annual report of the Illinois highway commission, published in 1907. The commission secured the data by sending circular letters to the 1379 townships in counties under township organization and to the 234 road districts in counties not under township organization.[2] The report shows that during the year 1905, $4,625,365 was spent by the people of Illinois on roads and bridges. The State contains a total road milage of 94,141, which gives an average of about fifty dollars for each mile of road in Illinois. The report shows that the money value of the labor tax amounts to but $490,563 of the total $4,625,365, or a little over one-tenth. The equalized valuation of all the taxable property for the

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1. Reports of Auditor of Public Accounts, 1898 - 1905.
2. Report of Illinois Highway Commission. Vol. I, page 3.

same year was $1,095,681,557 which makes the average rate of levy for road purposes about forty-three cents on the one hundred dollars of equalized valuation.

COMPARISON WITH OTHER STATES.

In order to compare the progress made by the State of Illinois in taxing methods with the progress in other States and determine the possibility of any beneficial changes of the present system, it may be well at this point to examine briefly some of the recent road legislation in a few of the other states.

In 1904 The total expenditures for roads from all sources of revenue in the United States was $79,771,417. The following table shows the relative expenditures of the different states, giving the amounts received from taxes payable in cash and in labor, and the expense per mile and per inhabitant.

TABLE I.

STATE.	PROPERTY AND POLL TAXES PAID IN CASH.	LABOR TAXES.	PER MILE.	PER INHABITANT.
Ala.	$ 378,039	$1,198,394	$ 31.47	$ .86
Ariz.	67,591	41,718	18.25	.89
Ark.	681,933	713,409	38.28	1.06
Cal.	2,146,145	----------	46.24	1.45
Col.	601,060	71,828	23.40	1.31
Conn.	975,960	---------	84.83	1.32
Del.	76,802	---------	30.26	.49
Florida.	437,184	140,393	33.24	1.09
Georgia.	894,936	1,185,936	36.37	.93
Idaho.	201,648	109,140	17.15	.87
Ill.	3,844,423	336,526	44.73	1.92
Ind.	2,095,970	896,718	63.46	1.72
Iowa.	2,344,106	762,501	30.32	1.39
Kan.	692,823	539,994	12.10	.83
Louisiana.	345,451	606,421	38.23	.68
Ky.	1,161,194	987,495	37.60	1.00
Maine.	1,427,508	---------	57.76	2.12
Maryland.	873,470	---------	52.07	.73
Mass.	2,295,616	---------	167.98	1.02
Mich.	1,816,504	1,363,283	45.88	1.31
Minn.	1,542,641	354,212	24.72	1.12
Miss.	339,669	1,335,816	43.29	1.08
Mo.	1,570,801	798,100	21.90	.76
Mont.	308,743	95,354	18.02	1.66
Neb.	494,886	383,661	11.05	.82
Nev.	46,875	---------	3.72	1.10
N.H.	828,606	---------	57.72	2.12
N.J.	3,024,811	---------	240.64	1.73
N.Mexico.	35,457	130,190	10.80	.84
New York.	2,881,268	1,754,785	77.05	.79
N.Carolina.	624,380	734,306	27.30	.71
N.Dakota.	456,130	94,210	9.28	1.72
Ohio.	3,932,563	929,766	82.72	1.37
Oklahoma.	447,319	327,456	17.79	1.94
Oregon.	649,717	146,658	23.24	1.92
Pennslyvania.	4,759,499	---------	48.98	.77
Rhode Island.	297,414	---------	171.44	.94
S.Carolina.	334,081	411,619	17.82	.55
Tennessee.	386,013	892,635	33.10	.80
Texas.	1,607,216	1,594,545	34.08	1.35
Utah.	135,210	60,890	30.84	.79
Vermont.	440,016	---------	39.07	1.65
Virginia.	1,687,751	---------	13.27	.37
Washington.	344,842	91,288	44.88	2.77
W.Virginia.	1,587,870	305,415	34.12	.93
Wisconsin.	1,924,025	257,368	34.30	1.05
Wyoming.	324,475	21,456	9.45	1.04
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United States.	53,815,387	19,818,236	37.07	1.05

By an examination of the table on page forty-nine[1] it will be noticed that of the $53,815,387.98 credited to the property and poll taxes perhaps one-half was actually paid in labor, as in many states the option is given of working the tax or paying it[2] in labor. This choice of means greatly weakens the efficiency of the tax, for it is found that a large proportion of the time is wasted, the work being done by unskilled workers, and no fund is available to hire skilled workers. Many states are beginning to realize that to obtain the best results from a given levy of taxes, the work must be placed in the hands of persons whose duty it is to spend their entire time in the work, and to accomplish this, collection in cash is necessary. With this end in view the Legislatures of New York and Pennsylvania have passed laws providing that when any town or township shall abolish the working out of taxes and shall require payment in cash, it shall receive from the State a certain percent of the taxes so collected.

In New York the amount so paid by the state is fifty percent, and in Pennsylvania is fifteen percent.[3]

One of the earliest forms of road maintenance followed was that of statute labor, a survival perhaps of the old feudal system of Europe. Indeed as late as 1899 there were eight states in which no cash or property taxes were levied, but by 1904 all of the states had adopted some form of property or labor tax payable in cash. The importance of the labor tax is still evident when it is remembered that the cash value of the labor tax for the United States as a whole

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1. Bulletin 32 of U.S. Department of Agriculture. Page 8-9.
2. ibid, page 16.
3. ibid, page 17.

in 1904 was $19,818,236 (see table). This tax is still in operation in twenty-five states;but in as much as in eleven other states the poll tax may be paid in labor it means that statute labor is really in force in thirty-six states. Texas ranks first as a statute labor state,the estimated cash value of the labor tax in 1904 being $1,094, 545. Mississippi ranks second with $1,185,936;Alabama third with $1,198,394; Georgia fourth with $1,185,936. Kentucky and Ohio expended over $900,000 in this way;Tennessee and Indiana over $800,000; Arkansas,Missouri and North Carolina $700,000 each.

It is an interesting commentary on the efficiency of statute labor to note that in the states where it is used but six and fifteen-onehundredths percent of the roads in the state are improved,while the average percentage in the states in which no such tax is levied is eighteen and thirty-nine one -hundredths. This would seem to indicate that the best results are obtainable in states where the road taxes are paid chiefly in cash. In no states,however,have laws been passed making all the road taxes payable in cash. New York,Pennsylvania and Illinois have passed optional laws providing for an entire cash system,but it is being adopted by the towns and counties very slowly. The plan of New York offering state encouragement for the adoption of the cash system seems to be working well.

In 1891 the first state aid law was enacted by the State of New Jersey. The plan proposes the co-operation of the state with the counties,townships and in some cases with the property owners,in the improvement of roads. The plan worked so well that similar laws were afterwards enacted in Massachusetts,Vermont,Connecticut,New York, Pennsylvania and other states - thirteen in all.[1] New York voted a

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1. Road Bulletin No.32. Page 22.

constitutional amendment to provide for an expenditure of $50,000,000 in ten years for state aid. The amount appropriated by the various states for road construction has continually grown. Pennsylvania starting with $150,000 per year is now expending over $1,000,000 each year for state aid.[1] In 1895 a law was passed in Pennsylvania providing that in the improvement of the principal highways, the state is to pay seventy-five percent of the cost, the counties twelve and one-half percent and the township twelve and one-half percent.[3] The state also contributes one-half toward the expense of maintaining roads built under this act. In Massachusetts the state aid becomes more of a loan at a low rate of interest. The entire cost of the roads is paid by the state, but one-fourth of this must be paid back to the state within six years with three percent interest. This sum along with that necessary for the state's share is assessed on the towns by the counties.

The method of state aid employed by New York is used in connection with special assessments on the adjacent property. It seems to work well, having most of the arguments for special assessments in its favor, and giving the persons most interested an opportunity to secure the needed improvement. The law provides that fifty percent of the cost is to be paid by the state, thirty-five percent by the county and fifteen percent by the property owner benefited. The state's share is paid from the general treasury, while the county tax is paid by a special tax levied for the purpose and collected in cash.[3]

In Colorado, Utah and California the state pays the entire cost

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1. Report of Illinois Farmer's Institute. Vol.XIII, page 254.
2. Road Bulletin Number 32. Page 38.
3. ibid, page 35.

of the construction of certain specified state roads. In the thirteen states $2,607,322.66 was expended from state aid funds for construction and repair in 1904. The largest expenditure was in New York - $1,056,460; the next in Massachusetts, which spent $575,605.99; the third was New Jersey which spent $250,000.[1]

There is another method of state aid which is practiced in a good many of the states; convict labor, either in actual work upon the roads, as in Georgia and Mississippi, or in the preparation of road materials as in California. The first system is attended with so much risk, cruelty and expense that but few of the states have adopted it. But the second system avoids these defects and gives cheap road material at but little additional expense to the state.

There are many arguments in favor of state aid which make it a very practical method of road support in certain sections. It is only just, it is claimed, that the corporations and business of the towns should pay for the construction of the roads which count so much for the general value of their property.[2]

All questions of taxation for road support, however, necessarily rest ultimately upon the rate of the tax levy. "Unquestionably the bitterest controversies in counties and in townships in connection with the subject of road improvements are over the proposed increases in the tax rate"[3] either for local improvement or increased state taxes. An examination of the rates levied in various counties in the United States shows that for the year 1904 the lowest rate was one

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1. Road Bulletin number 32. Page 18.
2. Stone, New Roads and Road Laws. Page 69.
3. Road Bulletin number 32. Page 18.

and three-tenths cents on one hundred dollars of property valuation, in Maryland,while the highest rate was one and six-tenths cents in Washington;the average for all counties being twenty-five and seven - tenths cents. Mr Eldridge says thst a careful comparison of the various rates shows that the greater the progress and wealth of the county the higher is the tax rate.

TABLE II.

THE RATE OF LEVY FOR ROAD PURPOSES IN 1904 ON EACH $100 OF ASSESSED VALUATION.

STATE.	MAXIMUM.	MINIMUM.	AVERAGE.
Alabama	$.25	$.10	$.175
Arizona	.25	.10	.181
Arkansas	.30	.10	.290
California	.60	.21	.378
Colorado	.85	.05	.362
Connecticut	a	a	a
Delaware	.35	.15	.270
Florida	.60	.075	.303
Georgia	.20	.05	.161
Idaho	.75	.10	.251
Illinois	b	b	b
Indiana	b	b	b
Iowa	.50	.10	.397
Kansas	[illegible]	.02[illegible]	.[illegible]
Kentucky	.31	.05	.199
Louisiana	c	c	c
Maine	.58	.30	.436
Maryland	.84	.013	.254
Massachusetts	a	a	a
Michigan	b	b	b
Minnesota	b	b	b
Mississippi	.30	.05	.100
Missouri	.30	.05	.156
Montana	.30	.05	.190
Nebraska	.60	.03	.225
Nevada	.25	.05	.130
New Hampshire	.603	.25	.423
New Jersey	b	b	b
New Mexico	.20	.25	.078
New York	b	b	b
North Carolina	.40	.05	.188
North Dakota	1.30	.12	.444
Ohio	b	b	b
Oklahoma	b	b	b
Oregon	1.00	.10	.372
Pennsylvania	b	b	b
Rhode Island	b	b	b
South Carolina	.20	.025	.118
South Dakota	.50	.05	.227
Tennessee	.20	.08	.149
Texas	.30	.02	.149
Utah	d	d	d
Vermont	a	a	a
Virginia	.50	.10	.237
Washington	1.60	.30	.738

STATE.	MAXIMUM.	MINIMUM.	AVERAGE.
West Virginia	.45	.05	.258
Wisconsin	b	b	b
Wyoming	.21	.005	.171
Average for all counties.			.257

a. No separate levy is made for roads, money for this purpose being appropriated by the town meetings out of the general fund raised for all purposes.

b. In these states the levy varies in the different townships.

c. The amount of property tax which one person may be required to pay is limited to fifteen dollars.

d. Counties in this state make no specified levy, money for road purposes being apportioned by the county commissioners out of the general fund.

In some of the states the road tax is levied by the towns or townships and in others the road funds are appropriated out of the general fund levied for all purposes. In several New England states the town meetings appropriate such amounts as are considered necessary out of the general funds. In many of the northern states such as Pennsylvania, Ohio and Indiana, taxes are levied by counties as well as by townships.

An examination of the table on page fifty-five and of the road laws in operation in the various states, shows that in twenty-nine states the tax for maintenance of roads is levied by the county commissioners. In eleven states the tax is levied by independent boards; in six states by special town meetings; in one state there is no road tax; and in one state the road tax on property is limited to fifteen dollars per year.

PROPOSED REMEDIES.

In proposing any system of road taxation applicable to Illinois, the special condition in this state must be considered, and too implicit confidence must not be placed in the advisability of any certain system because it has worked successfully in other states. This is particularly true in regard to the system of state aid. Under the present tax system of Illinois such a plan would increase the now almost unbearable burden of city taxation, without achieving one of the aims of the tax, just taxation of the corporations of the state, which do not bear their proper share of the city expense under the present taxing system of the state. With a reform of the revenue system of the state, particularly a separation of the state and local tax this system becomes of considerable promise, and a plan of state aid

like that adopted in New York might be tried.

Under present conditions the building of through roads by the state is hardly necessary since an examination of the traffic census given in the report of the state highway commission shows that a greater percent of the traffic of the state is within circles of about ten miles diameter around the various towns, the majority of the cities being separated by long distances, and transportation by railroad being cheaper than by through common roads. This is marked contrast to the conditions in the East where the towns are much closes together,[1] and the through road affords a means of cheap transportation.

The experiment of convict labor in the preparation of road material seems to have worked admirably in the State of Illinois. The system does not interfere with any of the present industries and at the same time creates a demand for free labor in the construction of the roads. As a further step in this direction sub-penitentiaries or means for keeping the convicts working in the various quarries of the state, might be established.

A far more economical system of road administration could be devised than the one now in operation. The state at present is divided into some fifteen hundred districts or townships, each one acting independently of the other, levying such taxes as the public sentiment of the locality favors, and each acting as it sees fit. In each of these districts there are three commissioners, making a total of forty-five hundred road officials to be paid from the road tax. As the office is constantly changing hands no systematic plan can be followed from year to year. Each farmer wishes to have the road opposite his property improved and the result is a thin veneer of attempted improvements

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1. Report of Illinois Farmer's Institute. Vol. XIII, page 259.

spread over the 95,000 miles of roads in the state. Indeed "over one-half of the five million dollars",yearly expended for roads,"is spent to no practical purpose,in fact it is censervative to say that one-half of it is spent to no advantage".[1]

A change in the present system would necessitate,first,a reduction of the present number of road officials,and second,enlarging the units of administration.

Some steps have already been taken in this direction for counties not under township organization: in the county administration act of 1901,in accordance with which the road tax is levied by the counties and the expenditure undertaken by a supervisor appointed by the board.[2] But no provision of this sort is made for counties under township organization.An act providing for such an administration in all counties would be a step in the direction of centralization of control. The nullifying feature of the present law allowing the adoption of the labor system could be amended and a cash tax made compulsory.

The county unit would be large enough to warrent the employment of a competent highway engineer who could have immediate control of all road work. This would permit of the possibility of good substancial work being done and of a progressive system of road improvement being adopted. Such a policy in time would provide the county with better roads at but very slight increase in the tax rate. But experience in our own and other states shows that for any immediate benefit to result from the adoption of this system its adoption must be made compulsory.

But this is hardly sufficient,inasmuch as a certain amount of

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1. Report of Illinois Farmer's Institute.Vol.XIII,page 259.
2. Laws of Illinois,1901. Page 285.

state control is necessary. The present state highway commission offers a very convenient means for effecting this central control. A law might be passed providing for an annual conference in each county of one of the state commissioners and the county authorities, thus insuring a more uniform policy of road construction throughout the state.

Proposals for a reform of the taxing system may be classified as follows:

(1) Substitution of county taxing power for taxation by the highway commission.

(2) Requirement that all taxes be paid in cash - both property and poll tax.

(3) Provisions for a system of road improvement either by state aid and local assessments, or for a system of county aid modeled to a certain extent on the present law providing for county aid for bridge work, with modifications, of course in some particulars.

(4) A separation of the local and state tax, with a reduction of the rate of levy and an assessment on the actual valuation of the property.

CHAPTER III.

TAXATION FOR SCHOOLS.

The school system of Illinois furnishes one of the best examples of local self government in the state, while the delegation of powers by the Legislature to the various boards of school directors affords an excellent example of delegated taxing power. The history of taxation by these independent boards for school maintenance forms an interesting part of the history of taxation in Illinois.

The Constitutions of 1818 and 1848 made no provisions regarding the school system.[1] The Constitution of 1870 provides that a system of free schools be established in the state,[2] and that no special laws be passed by the assembly for the management of common schools.[3] Prior to this date a large number of schools were governed by special charters. The limit of indebtedness of a school district was made five percent of the value of its taxable property.[4]

The present system of free public schools dates from 1855. Prior to that date a few attempts had been made to form a good system, but it was not until 1855 that a school tax levied by an independent board was provided for by law. Before that date whenever a tax was levied for school purposes, it was by a special meeting of the voters of the district, while the tax was collected by a special collector appointed for the purpose.[5]

To better understand the taxing system followed, a short account

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1. Pillsbury, School Laws and Decisions in Illinois. Page 9.
2. Constitution of Illinois, 1870. Art. IV, section 1.
3. ibid, Art. VIII, section 22.
4. ibid, Art. IX, section 12.
5. Shelton, School Legislation. Page 37-39.

of the general school system is necessary. The state is divided territorially as follows:

(1) The State
(2) The County
(3) The Township
(4) The District.

Congressional townships as fixed by the national survey form the townships for school purposes. The district is the smallest unit of territory known to school law, and it imparts to the system its flexibility of organization. The size of the districts vary from a few acres to an entire township. Trustees have exclusive jurisdiction over the original division of the township into school districts, having entire liberty as to the number of districts they may establish in their township,[1] except in Chicago where a board of education assumes this duty.

Until 1872 their powers to change the districts was coextensive with their power to establish them in the first place, the only check being that the changes must be made at a stated semi-annual meeting. The changes made were of the greatest variety in form and extent, from the addition of a few acres, to the union of several districts so as to change the township into a district. But this feature of unstable boundaries has been considerably lessened since 1872 by the law providing that any change made in the boundaries of the districts after their formation, can only be made on petition of a majority of the inhabitants of the district affected.[2] The same law provides that all changes made in the districts shall be recorded by the secretary of the trustees, and a new map of the township made and filed with the

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1. Biennial Report on Schools, 1871-1872. Page 104.
2. ibid, page 119.

county clerk.[1]

The school system of Illinois also provides for the following school officers:

(1) State Superintendent of Public Instruction.

(2) County Superintendent of Schools.

(3) Board of Township School Trustees.

(4) Board of School Directors.

Only the latter two are connected with the taxing system.

The board of trustees are three in number, and have charge of the school interests and business of the townships, boundaries of the districts and apportionment of the school funds. They are elected by popular vote, one each year, holding office for three years.

In the organization of every board, one of the members is appointed president; and some person, not a director or trustee, is appointed treasurer, who is also ex-officio clerk of the board. The treasurer until 1889 was appointed for a period of but one year. But in that year the tenure of office was extended to two years. He is subject to removal by the trustees at any time and is intrusted with very numerous and important duties. He is placed under heavy bonds for the safe custody of all public funds and the faithful performance of his various duties. He receives the taxes assessed by the directors in each district and pays out the funds to their order, keeping a separate financial account with each district of the township and furnishing a transcript thereof semi-annually to the several boards of directors.

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1. School Report, 1871. Page 121.

As a rule the board of trustees has not possessed the right to levy a tax,but for two years it possessed the right of taxation. The law of 1855 provided that the trustees might levy a tax on all the taxable property in the township sufficient to meet all deficiencies in the current expenses of the school. The tax rate was certified to the county clerk and by him entered on the collector's books,and collected as other county and state taxes.[1]

The board of school directors consists of three persons. Each board is by law a body politic and corporate with the usual powers. Two members constitute a quorum for business. The duties of the directors are varied and of the utmost importance. "Standing at the end of the whole line of ministerial agencies created by the system - at the precise point where the schools themselves are to be organized and conducted - the success or failure of the whole gigantic common school organism of the state is largely in their hands".[2] The directors are elected by the voters of their district. A years residence in the district is required for elegibility to the office. The dates of the election of the directors under the various laws have changed.

1855 - 1859	First Monday of October.
1859 - 1861	First Monday of September.
1861 - 1869	First Monday of August.
1869 - 1872	First Monday of April.
1872 - 1889	First Saturday of April.
1889 - 1909	Third Saturday of April.

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1. Laws of Illinois,1855. Page 79.
2. School Report,1867. Page 117.

The tenure of office has also varied:

1855 - 1857	All elected biennially for two years.
1857 - 1859	All elected annually for one year.
1859 - 1909	One elected each year for three years.

The powers of the board extend only over the district from which they are elected, and all statutes conferring powers upon them are strictly construed.[1] From 1872 to the present, boards of education with powers very similar to those of the boards of directors are, in certain cases, substituted for the latter. The law of 1872 provided that in all districts having a population of not less than two thousand or more than one hundred thousand, a board of education was to be elected instead of the board of directors. The board consisted of six members serving for three years, with three additional members for every additional ten thousand inhabitants. Their election was held the same day as that of the directors.[2] The law of 1889 lowered the maximum number of inhabitants required in a district to elect a board of education from two thousand to one thousand.[3] The law of 1872 provided that in cities of more than one hundred thousand a board of fifteen members should be appointed by the mayor of Chicago; in 1889 the number was made twenty-one. Each member holds his office for three years.

The directors and boards of education are clothed with power of two kinds, absolute and conditional, or such as are conferred upon them directly and fully by the statute itself and such as are

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1. Wells v. People, 71 Ill. 532.
2. Laws of Illinois, 1872, Page 737.
3. Thompson, School Law of Illinois. Page 90.

conditional upon the authorizing vote of the electors of the district. The school law of 1865 provided that the board of directors meet in October or before May and determine the sums needed for (1) erecting school houses, (2) purchasing school sites, (3) repairing, (4) furnishing, (5) purchasing libraries; indeed for all expenses sufficient to keep the school in operation for six months.[1]

Two years later the law was changed so as to allow the directors to levy annually on all the taxable property in their district whatever tax might be necessary to support and establish free schools for six months and to defray all expenses of the same of every description.[2]

The powers of taxation conferred upon the directors to establish schools for six months was unlimited.[3] A majority vote of the electors of the district was required to[4]

(1) Purchase or lease a school site.
(2) Purchase or move a school house.
(3) Levy a tax to extend schools beyond six months.
(4) Borrow money for building school houses, purchasing school sites, for repairs or for improvement.
(5(To levy a tax to build school houses, purchase sites, or for repairs or improvement.

During the early history of the school system (1857 - 1859), however, the law provided that where the people of a district would not vote for a school house when the directors thought one necessary, the directors were given the right to build it. The law provided that the building must not cost over one thousand dollars, and that

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1. Laws of Illinois, 1855. Page 80.
2. ibid, 1857. Page 274.
3. School Report, 1867. Page 117.
4. ibid, 118.

a tax to cover this amount should be lawful without the people's vote.[1] This provision was repealed in 1859.[2]

The law of 1872 provided that for the purpose of establishing and supporting free schools for not less than five not more than nine months in each year, and to defray all expenses of the same for every description, the directors were authorized to levy a tax annually on all the taxable property of the district, not to exceed two percent for educational purposes and three percent for building, to be ascertained by the last assessment for state and county taxes (except to pay indebtedness contracted previous to 1872).[3] The significance of the three percent allowed for building was, however, completely changed by a later section of the act which declared that the directors should have no right, without a vote of the people, to raise money either by issue of bonds or by taxation, so that the powers seemingly conferred were really taken away.[4]

In 1889 the law was changed so as to provide a tax for supporting schools for not less than six or more than nine months.[5] It authorized the directors and authorities of cities possessing special charters to levy a tax, not to exceed two and one-half percent, for educational, and two and one-half percent for building purposes. But, as before, it was unlawful for the directors to build a school house without the vote of the people of the district on the question, and a

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1. Laws of Illinois, 1857. Page 277.
2. ibid, 1859. Page 162.
3. ibid, 1872. Page 718.
4. School Report, 1871. Page 155.
5. Thompson, School Laws. Page 112.

tax levied without this vote was void.[1]

From 1855 to 1872 the directors of each district estimated as nearly as practicable the sum that would be required for the current and special expenses of the school for the year. They then found what rate per centum must be levied in order to realize the required amount, and prepared an alphabetical list of the taxpayers of the district. To the rate thus estimated they attached their certificate, which with the list of taxpayers was returned to the township treasurer. The latter, having examined the certificate and list and found them to be correct and in due form, returned them to the clerk of the county:

1855 - 1859 by the first Monday in July.

1859 - 1872 by the second Monday of September.

The county clerk when making out the tax books for the collector computed each person's tax in said district, taking as a basis the total amount of taxable property returned by the county assessor for that year and placed the sums as computed in a separate column, headed "School tax", and then delivered the tax books to the collector. The county clerk then made out a certificate of the amount due each township and school district, and delivered it to the township treasurer.[2] Where a district lay in more than one county, the certificate of the rate of taxation was returned to the clerks of each county, along with the list of the resident taxpayers of that part of such district as was situated in his county. Upon presentation of the certificates to the collector, "on or before the first day of April next after the

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1. Thalcher v. People, 93 Ill. 240.
2. Laws of Illinois, 1885. Page 80.
ibid, 1857. Page 274.
ibid, 1859. Page 160.

delivery of the tax books", it become the collector's duty to pay over to the treasurer the amount certified on the certificate, except such part as he was unable to collect, together with his commission.[1]

The determination of the rate of levy necessary to raise the required sums needed was found by the directors to be a very difficult proposition. The act of 1872 remedied this defect and provided the directors should only determine the amount necessary to be raised by special tax for school purposes during the ensuing year which amount should be certified to the township clerk on or before the first Monday of September annually. The treasurer was required to return said certificate to the county clerk on or before the second Monday of September.

It then becomes the duty of the county clerk to ascertain the rate percent necessary to be levied in each district in order to raise the amounts specified in the several certificates of the directors on file, and to compute each taxable person's tax in the respective districts, taking as factors in each case the said rate percent and the whole amount of the taxable property in each district, as equalized by the state board of equalization for that year. When assessing personal property, assessors were required to designate the number of the school districts in which each person so assessed resided. These numbers so returned by the assessors were copied by the county clerk into the collectors books and the clerk extended on said book the amount of each person's tax on personal property

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1. Laws of Illinois, 1857. Page 276.

according to the numbers designated. The provisions for the collection and payment of the tax to the township treasurer remain as before.[1]

The law of 1889 provided that the directors must certify the amounts needed to meet the year's expenses on or before the first Tuesday of August, instead of the first Monday of September as the act of 1872 provided. And provided that the tax certificate be returned to the county clerk by the second Monday of August.

In 1872 an act was passed declaring that when the majority of the voters of any township should vote for a township school, the township should be regarded as a school district, and the trustees should have the powers and the duties of directors for such district.[2] By the act of 1889 the control of the township high school was placed in the hands of a township board of education consisting of five members and elected at the same time as the trustees. This board levies the necessary taxes in the same manner as provided for the directors.[3]

The following is a table giving the number of districts and the tax collected in the districts for school purposes.[4]

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1. School Report, 1871-1872. Page 128.
2. ibid, page 21.
3. Law of Illinois, 1889. Page 277.
4. School Reports, 1855 - 1906.

TABLE III.

YEAR.	NUMBER OF DISTRICTS.	TAX.
1857	7,000	$ 412,391
1858	8,149	563,460
1860	8,956	1,265,137
1862	9,443	1,055,340
1864	9,866	1,422,690
1866	9,938	2,789,335
1868	10,590	4,250,679
1870	11,006	4,780,988
1872	11,231	5,292,942
1874	11,285	5,658,182
1876	11,563	6,021,093
1878	11,714	5,345,749
1880	11,599	5,735,477
1882	11,529	5,920,461
1884	11,457	7,053,323
1886	11,534	8,239,041
1888	11,536	8,424,724
1890	11,511	8,828,120
1892	11,578	11,128,162
1894	11,619	12,921,238
1896	11,615	13,133,809
1898	11,620	15,141,098
1900	11,771	15,771,330
1902	11,734	17,527,099
1904	11,751	19,336,578
1906	11,760	21,388,193

C H A P T E R IV.

TAXATION BY DRAINAGE BOARDS.

Drainage for various purposes has always occupied a very important place in the improvement of the state. The Assemblies have accordingly passed numerous provisions regulating and controlling drainage. During the early part of the history of the state and remaining in force until the constitution of 1870 forbade it, the general form of provision was through private laws incorporating specially named commissioners with definite powers. Under the new constitution the usual form is for a specially elected board to improve and drain the land and apportion the costs on the property benefited.

The constitution of 1818 makes no reference to drainage and although the constitution of 1848 likewise makes no mention of drainage, several of its provisions affected the validity of the drainage laws. The former practice of the Assembly authorizing lotteries was forbidden.[1] The usual tax by valuation was continued. But the most important provision affecting taxation for drainage purposes by special drainage boards, and indeed by all independent taxing boards, was the following provision: "The general assembly may vest the corporate authorities of counties, townships, etc, with the power to assess and collect taxes."[2] In a case several years later the supreme court of Illinois decided that although the constitution limited the taxing power to the corporate authorities

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1. Art. 3 sec. 35 Const. of 1848.

2. Art. 9 sec. 5 Ibid.

named[1], it was no prohibition against the creation by the legislature "of every conceivable variety of corporate authority" and endowing it with the attribute of other preexisting corporate authorities, providing that the people accept the said authorities.[2]

Under the constitution of 1870 several new provisions were made relating to taxation for drainage purposes.

I. The general Assembly was forbidden to pass any special legislation, regulating the affairs of any county or township.[3] The effect of this provision will appear in the explanation of the park system of Chicago.

II. The Assembly was given the right to vest the corporate authorities of cities, towns and villages with the power "to make local improvements by special assessment or by special taxation on contiguous property or otherwise." The further provision was made that "for all corporate purposes all municipal corporations be vested with authority to assess and collect taxes"--the taxes to be uniform.[4]

III. In 1878 the constitution was amended so as to permit the owners of lands, to construct drains, ditches and levees for agricultural, mining and sanitary purposes, across the lands of others and provision was made for the payment of the expenses by special assessment of the property benefited.[5] In deciding the construction

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1. Monroe Levee and Drainage et al. 51 Ill. 130.
2. People ex. rel. Wilson et al. vs. Solomon 51 Ill.37.
3. Constitution of 1870 Art. IV. sec. 22.
4. Ibid Art. IX. sec. 9.
5. Constitution of 1870 Art. IV. sec. 31.

of the powers granted in this clause, the Supreme Court, decided that this did not prohibit the use of the general property tax.[1]

The history of special provisions for raising funds for drainage purposes begins early in the history of the state. In 1839 the legislature authorized a lottery to raise funds for draining ponds in the district known as the American Bottom. Another common method of improvement was through the Board of Public Works. Sums ranging from $5000 to $150,000 were appropriated by the legislature to improve the navigation of certain rivers.

But by far the most important means used was through private acts. A commission ranging in number from 3 to 7 was appointed by the legislature, with certain well defined powers and duties covering a definite territory. The expenses for all ditches and drainage were assessed on the lands benefited and the assessments were usually collected by the regular collector, and paid over to the treasurer of the board. The people assessed were always given the opportunity of another hearing if they considered their share of the expense greater than the benefit they derived.

But the powers of these specially appointed commissions was by no means limited to special assessment. It was rather common for the legislature to impose a general property tax on a certain territory without the consent of the inhabitants. An example is found in an "act for the Improvement of the Illinois River" (1851). A commission was named with certain duties and powers among which was the right to borrow not over $50,000 at a rate of interest not to exceed ten per cent. To pay the interest and principal of this debt, the legislature provided that the corporate authorities of

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1. Teunn vs. Harrison 109 Ill. 593.

certain towns named, were to levy a general property tax ranging from one to two mills on the dollar.[1]

The saving clause of the act was the provision that the tax should not be levied if the legal voters filed a petition against it.

There are at least two cases, however, where a board appointed by the Assembly was given the right of general taxation in a specified area, without the consent of the inhabitants.

The first of these was entitled an act to invorporate the Naples Protective Association, with the specified purpose of building a levy and improving the land along the Illinois River. A board was named with specified powers, among others being the right to levy a tax on all real estate in their district to be collected as state and county taxes.[2]

The second was the St. Clair and Monroe Levee and Drainage company. A specially appointed Board was given the power to levy a general property tax. Two years later the act was declared unconstitutional.[3] This put an end to the arbitrary use of the delegation of taxing power to independent boards.

With the adoption of the constitution forbidding special legislation, numerous general laws were passed. The usual form provided that on petition of a certain percentage of the property holders of any proposed district presented to the court, a special commission would be appointed to investigate, and in case it was decided that the benefits derived would be greater than the expense, an election was held to vote for or against the formation of the district. In case a majority decide in favor, drainage commissioners are elected. The proposed drainage is accomplished and the costs

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1. Laws of Illinois 1851 P. 80.
2. Law of 1852 P. 93.
3. Harvard vs. Drainage Co. 51 Ill. 130.

and damages are assessed on the land benefited--usually by a specially selected jury. The assessments are entered on the tax book by the county clerk and collected by the regular collector along with the state and county tax.

But two laws have been passed since 1870 providing for the election of a board of drainage commissioners with powers of general taxation: one an act entitled "an act to create Sanitary districts and to remove obstructions in the Desplaines and Illinois Rivers," passed in 1889[1], the other an act to create "sanitary districts in certain districts subject to overflow," passed in 1907

The former law provides that whenever any "contiguous territory within the limits of a single city shall contain two or more incorporated cities and shall be so situated that the maintenance of a common outlet for drainage will conduce to the preservation of the public health," the inhabitants thereof may incorporate themselves into a sanitary district. Upon the petition of 5000 legal voters of the proposed district addressed to the county judge, the proposal for the organization of the district, is submitted to the vote of the ellectors of the district. In case a majority vote in favor of the district it is organized.

The boundries are determined by a commission formed of the county judge and two circuit judges.

Upon the Tuesday next after the first Monday in November an election is held and nine (9) trustees are elected; holding their offices for five years. After their election the trustees choose one of their number president. They also have the right to elect a

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1. Law of 1889 P. 125.
A law intended to apply especially to Chicago but worded as a general law to evade the constitutional provision against special legislation.

clerk and treasurer. When duly organized the board is declared to be a "corporate body and politic."

To enable the trustees to carry out their duties and meet all expenses, provision was made for them to borrow money for corporate purposes and to issue bonds therefor--the limit of indebtedness being placed at the constitutional five per cent limit, provided that five per cent of the assessed valuation does not amount to more than fifteen million dollars.

The board of trustees is to provide for the collection of a direct annual tax sufficient to pay the interest on the indebtedness, and to provide for the payment of the principal within twenty years. To meet this outlay for the interest and principal, and to provide for the general expenses, the Board of Trustees is allowed to levy and collect taxes for corporate purposes, within the limit of the district. The maximum rate allowed is one half of one per cent of the equalized valuation of all property[1] within the taxing limits. The law was amended in 1895[2] so as to provide that for the years 1895, 1896, and 1897 the maximum rate be raised one per cent, and again in 1897 so as to provide that the one and one half per cent of levy be extended for two more years.[3] In 1907 an amendment was passed limiting the levy to one per cent.[4]

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1. The equalized valuation of the year in which the levy is made, being used.
2. Law of 1895 P. 168.
3. Law of Ill. 1897 P. 209.
4. Laws of Ill. 1907 P. 284.

The Board causes the amount required to be raised by taxation each year to be certified to the county clerk on or before the first Tuesday in August. The act states that "all taxes so levied and certified shall be collected and enforced in the same manner and by the same officers as the county taxes, and shall be paid over by the officer collecting to the treasuere of the Sanitary district."

In 1907 a second general act was passed, providing for the formation of Sanitary Districts.[1] The act declares that "whenever any area of contiguous territory within the limits of two counties having within its limits two or more incorporated cities or villages and an aggregate population of not less than 25,000, shall be so situated as to be subject to the overflow from any river or tributary thereof and the maintainence of one or more levies for the protection of the same against overflow and of a new or improved outlet for drainage thereof will conduce to the preservation of the public health and safety, the same may be incorporated as a sanitary district."

If 300 inhabitants of any territory meeting the above conditions petition the county judge, the proposed district may be submitted to popular vote. If a majority vote in favor of the district, a further election is held and five trustees elected. Their term of office is three years, and they are declared to be a corporate body with power to borrow money[2] and levy taxes. The amount annually required is certified directly to the county clerk, who determines the rate per cent upon all the taxable property of the district necessary to produce the required sum. The aggregate amount of taxes levied for

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1. Laws of Illinois 1907 Page 289.

2. There is no limit to their borrowing power except the 5% constitutional limit.

any year exclusive of the amount levied for payment of bonded indebtedness and interest thereon, is limited to two per cent of the equalized valuation; "provided that an amount not exceeding an additional three per centum of such valuation may be levied and collected etc, if the question has been submitted to the legal voters of the district."

These laws seem to be justified by the fact that the employ- of such sanitary methods as are conducive to the general health, are justifiable under the police power of the state and the power of taxation may properly be used in the furtherance of such purposes. As all unsanitary conditions are a menace to public health, such conditions may be remedied and the expenses met by general taxation.[1]

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1. Gray, Limitations of the Taxing Power: P. 163.

C H A P T E R V.

TAXATION FOR PARK PURPOSES BY INDEPENDENT BOARDS IN ILLINOIS.

The parks of Illinois are confined almost entirely to the limits of one city--Chicago. As a result the greater part of the park legislation enacted by the General Assembly has been for Chicago. Before the constitutional provision against special legislation[1] the park system of Chicago was managed in accordance with special laws, while since that period the Assembly has evaded the constitutional provision by enacting special laws for that purpose under general phraseology.[2] As a result, the laws providing for parks in other parts of the state are of much more recent origin. The first general law providing for the formation of a park district, and election of a park commission with powers of general taxation was not passed until 1893, although from a much earlier date the corporate authorities of municipalities were given the right to establish parks within their limits, and levy a tax for the maintenance of the same. In 1885 the law was changed so as to provide that if any park district lies within the taxing limits of any incorporated city, town or village, the complete charge of its maintenance can be given over to a park commission after the authority of the proper city authorities has been received and the written consent of the abuting land owners.[3]

It has always been a practice of the General Assembly to make a

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1. Constitution of 1870 Art. IV. sec. 22.
2. Pettibone vs. the W. Chicago Park Com. 74 N. E. 387.
3. Law of 1885 P. 174.

clear distinction between the delegation of the power of special and the power of general taxation. As early as 1871 all Park Commissioners who had been previously appointed or otherwise selected were declared to be "corporate authorities" with power to maintain and improve their parks. The expenses to be met by special assessments on the property benefited. The provisional clause was inserted, that the law was only binding, if the act appointing the park commissioners had been submitted to the legal voters of the town or towns and by them respectively adopted.[1]

In 1885, however, a law[2] was passed providing that "every board of park commissioners having a bonded indebtedness incurred by virtue of the laws of the state, which is unable after paying the interest and yearly maturing bonds to properly improve, govern and maintain the parks under its control with the amount of money now authorized by law" "shall in addition to the present rate of taxation be allowed a sum not exceeding a mill on each dollar of taxable property in the district as determined by the last state and county assessment." The law further provided that the officers authorized by law to assess taxes for park purposes, on receiving the certificate from the board of park commissioners, were to levy the amount mentioned in the certificate--not exceeding one mill--on all the taxable property of the district. The tax was collected in the usual way.

In 1893 was enacted the first general law[3] intended primarily to apply to the entire state, providing for a park commission with independent taxing powers. The act was entitled an "act to provide for the creation of pleasure drive-ways and park districts." The

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1. Law of 1871-2 P. 579.
2. Laws of Ill. 1885 P. 226.
3. Laws of Illinois 1893 P. 153.

conditions upon which any territory may be organized into a park district are stated as follows:- "Any contiguous territory containing within its boundries two or more imcorporated cities, towns, or villages, lying within the same or adjoining townships," may be organized into a park district.

Upon the petition of 100 of the legal voters of the proposed district, filed with the county judge, and specifying the proposed boundaries, the question of the formation of the district is submitted to the people of the district for their approval. The date of the election is usually named in the petition. If a majority of the votes cast are in favor of the park, a second election must be held to choose the necessary officers. The date for this second election was not mentioned in the original act. A president and six trustees was to be elected; the president held his office for two years, while three of the trustees were elected annually. As soon as possible after their election the board meets and organizes, choosing a secretary and treasurer, each holding their office for one year. Both were required to give bonds--the amount to be determined by the board. All vacancies were to be filled by appointment made by the remaining members of the board.

In 1901 the act was amended[1] to provide that the election be held the second Tuesday in May. At any regular election, however, the question of the appointment of park commissioners by the county and circuit judges, instead of election can be submitted to vote. If a majority decide in favor of the system of appointment, "the county judge of the county in which all or a greater portion of said district is located, and two judges of the circuit court of the judicial district shall appoint seven trustees, no more than four to be-

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1. Laws of Ill. 1901 P. 258.

long to the same party." The tenure of office was made four years, three new trustees being appointed every two years. The trustees of these park districts are declared to be corporate authorities.

To meet the expenses incident to their work the boards of trustees are allowed to annually levy a tax. The original act placed no limit on the amount of the tax levy or the amount of the bonded indebtedness that they could assume. The act was amended in 1895,[1] so as to limit the debt to two and one half (2 1/2) per cent of the property in the district as equalized in 1894. A larger amount can be borrowed by submitting the question to popular vote at any regular election, the only limit being the constitutional five per cent. The amount required to meet the current expenses, interest and maturing bonds is certified to the county clerk and by him extended on the tax books. The tax is collected along with the state and county tax, by the collector and paid over to the treasurer of the board.

In the same year provision was made that the commissioners of any park could submit to the vote of the electors of the district, the advisability of maintaining a museum in the park. If the proposal received a majority vote, the commissioners were allowed to levy a tax not to exceed one mill on every dollar of taxable property. Upon the receipt of the certificate, signed by the commissioners, stating the amount required, it became the duty of the county clerk to enter the tax on the tax books. When collected it is kept as a separate fund.[2]

In 1895 a second general park law was passed by the Assembly, entitled "an act for the Organization of park districts and transfer of submerged lands." It provided "that any territory situated in the

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1. Law of 1895 P. 268.
2. Laws of Ill. 1893 P. 115. Although this is in form a general law it was entended to apply primarily to Chicago.- See Report on Municipal Revenues--by Chas. E. Merriam. P.7.

same county or in two adjoining counties under township organization, and so lying as to form one connected area, no portion of which is already included in a park district or in a township whose corporate authorities are allowed to levy taxes to maintain a public park" may be organized into a park district. Upon the petition of one hundred (100) voters living in such territory it becomes the duty of the county judge to submit the question to polular vote. If a majority vote in favor, an election is held on the day of the regular township election in April to elect the officers of the district.

Five persons are elected who are required to give a bond to be approved by the county judge. The tenure of office is five years, one being elected annually. The commission forms a "corporate and politic body" with power to levy an annual tax, not to exceed four (4) mills on every dollar of equalized value. The law[1] requires the county clerk to extend the tax on the tax books. When collected it is paid to the treasurer of the Commission.

In 1907 a law[2] was passed providing for township parks. The corporate authorities of every township were given the opportunity to purchase a plat of land not to exceed ten acres to be used for a public park. To meet the expenses of improvement a tax of one mill is permitted. Whenever there is at the time in existence a board of park commissioners, vested by law with control of any park that is wholly or in part in said township, it becomes their duty to levy the tax and perform all other duties of the supervisor and clerk.

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1. Laws of Ill. 1895 P. 272.
2. Law of Ill. 1907 P. 439.

C H A P T E R V I.

TAXATION BY INDEPENDENT BOARDS IN CHICAGO.

The conditions in Chicago are essentially different from those in the rest of the state, and would seem to demand special legislation. Prior to 1870 the Assembly met this condition by the passage of special laws applying to Chicago. With the passage of the constitutional provision forbidding special legislation, the Assembly found themselves in a dilemma: the same special conditions remained, and laws applying to the needs of the entire state would not regulate properly the affairs of Chicago. As a result the Assembly was forced to pass laws, which were special in intention but general in phraseology. In an early case it was recognized that although the law was special in intent, yet as its form was general, there were no grounds for declaring it to be unconstitutional.[1] From the date of this decision until 1905 the legality of this form of legislation was but little questioned in Illinois. In 1905, however, a case was decided by the supreme court, which throws into doubt the whole structure of special powers. In deciding the case it was held that, "There is no rational ground for legislating in behalf of one park district whose limits are coextensive with the limits of a town and not for other park districts of the same general sort whose limits are not coextensive with the limits of a town. ---- As the description can refer to but one town in the state, and as the act is a regulation of township affairs, it is repugnant to the constitution of 1870, Art. IV, Sec. 22, providing that no local or special laws regulating township affairs shall be passed."

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1 People ex rel Miller vs. Breslin, 80 Ill., 423.

The full effects of this policy[1] of legislation is perhaps best seen in the laws passed by the Assembly for the regulation and control of Parks. Hundreds of laws have been passed, the most of which were intended for Chicago, until it has become an almost impossible task to distinguish the general from the special. During the period from 1870-1905 it was comparatively easy to determine, for the benefit of what particular park commission, any law was enacted. The following are a few of the phrases used in the preambles of some of the laws:- "In any town which is now included within the limits of any city in the state in which a board of park commissioners exist." "That in all cases where a public park or portion of one fronting on the shore of a lake lies in any town the supervisor and assesor of which have heretofore been declared the corporate authorities"etc. But since the decision of 1905 the wording has become less specific. This can be best understood by a concrete example. In the year 1905 three park laws were passed--all permitting the borrowing of money by "persons who have been appointed or otherwise selected as commissioners or officers constituting a board of park commissioners for any town in pursuance of any act or acts of the general assembly of this state"etc. One law provided for the issuing of bonds to the five per cent limit, while the two other acts provided for the issuing of $2,000,000 and $1,000,000 of bonds each.[2] Indeed the laws have become so conplicated that Charles E. Merriam in discussing the situation said that "the only apparent effect of the constitutional prohibition has been to cloth park legislation in a mass of verbiage which by means of general expressions, pointed out to the initiated one or

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1 Pettibone vs. The W. Chicago Park Comrs. (74 N. E. 387)
2 Laws of Illinois, 1905, Page 333
Ibid, Page 334, 340

the other park district."[1] There are three principal park districts in Chicago, all of which were formed in 1819. Two previous laws had been passed incorporating the North and South Park districts, but both laws were repealed in 1869.

LINCOLN PARK.

In 1865 a special commission of five persons was appointed as the North Park commission by the Assembly. The districts included North Chicago and Lake View. The commission was authorized to issue bonds to the amount of $150,000, and levy an annual tax not to exceed $50,000. The amount needed for the year was to be annually certified to the county clerk who extended the tax on all the taxable property of the two towns. All finds collected were retained by the county treasurer, and by him paid to the order of the board.[2] In 1869 the act of 1867 was repealed and the North Park changed to Lincoln Park. The number of Park Commissioners remained the same, all vacancies to be filled by the circuit judge. The Park Commissioners are not corporate authorities: they do not levy taxes directly. They estimate the funds that will be needed and certify the amount to the supervisors of North Chicago and Lake View on or before the first day of October. The Supervisors were required to meet in the office of the county clerk of Cook County on the second Wednesday of October at 11 A. M. They fix upon the amount of the tax and make it uniform. They then certify to the county clerk the amount to be raised by taxation in each town. The county clerk computes the rate and extends the tax on the tax books.[3] Since 1901 the County Treasurer and City

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1 Charles E. Merriam, Report on Municipal Revenues of Chicago, P.8.
2 Laws of Illinois, 1865, Pr. Vol. II, P. 103
3 " " " 1869, Pr. Vol. I, P. 368
Ibid, P. 376

Clerk replace the town authorities. There is no legal limitation fixed for "Lincoln Park taxes."

SOUTH PARK.

In 1865 a park commission of five persons was appointed by the governor and judges of the Supreme Court for the South Park district; embracing South Chicago, Hyde Park and Lake. They were declared to be a corporate authority thru the popular vote accepting the act.[1] Bonds could be issued and a tax not exceeding $200,000 could be certified directly to the County Clerk. In filing, the county clerk determined the rate necessary to yield the required funds and levied it on the taxable property of the three cities. All funds collected were retained by the county treasurer and paid out to the order of the commissioners. In 1869, a new act was passed but it did not alter the method of taxation.

The following table gives the rates permitted under various laws.

Year.	Purpose.		Rate of levy.
1867	General expenses and int. on	$1,000,000 bonds,	$200,000.00
1869	" " " " "	2,000,000 "	300,000.00
1885	Bond issue,		.001
1889	Improvement,		.0015
1901	Bond Issue for small parks,	$1,000,000	
1901	Bond Issue	500,000	
1903	Small parks and pleasure grounds,	$1,000,000, additional,	.0005
1903	Museum,	additional,	.0005
1905	General expense,		.003

The power to issue bonds is derived from special authorization.

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1. People vs. Solomon, 51 Ill. 37.

from time to time, and for each issue of bonds an annual tax is authorized to pay the interest and retire one-twentieth of each issue respectively.

WEST PARK.

The West Park district includes the single town of West Chicago. The act of 1869 gave the commissioners the power to levy an annual tax thru the town authorities.

The following table gives the purpose and the rate of levy authorized under the different acts.

Year.	Purpose.	Rate of Levy.	
1869	All expenses,	not over	.0005
1871	" "	" "	.003
1879	" "	" "	.0025
1885	For interest on bonded debt,	additional	.001
1887	Bond issue of $600,000		
1891	Completion and improvement,	"	.0015
1893	General expenses,	"	.001
1895	Bond issue $600,000	"	.0015
1897	Bond issue, limit five per cent valuation,	"	.0015
1901	" " " $1,000,000 for small parks,	"	.001[1]
1905	General Expense,	"	.0015

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1. This law was declared to be unconstitutional as an act of special legislation, see Pettibone vs. Chicago Park Comrs. 74 N. E. 387.

In 1904 the total was computed by the Park commissioners at 12.5 mills.[1]

SANITARY COMMISSION.

In addition to the Park boards of Chicago, the sanitary commissioners of the Chicago Sanitary District levy taxes. The district is organized under the general act of 1889 (see P.) and includes nearly the whole of Chicago. The commission had by the original act a taxing power of one-half of one per cent. In 1895 it was given for three years an additional one-half of one per cent and later this additional levy was extended to 1899. In 1903 an additional one-fourth of one per cent was given for three years for the development of the water power of the canal. The commission also levies a small tax for interest and sinking fund; since the debt charges absorb a large proportion of the annual tax, the levy has necessarily been held at a rate high enough to yield some revenue for ordinary expenses.[2]

Still another addition to the taxing machinery of Chicago is the board of education, which with the concurrence of the city council levies all taxes for school purposes. The Revenue System of Chicago thus becomes one of the most complicated systems of finance to be found in the United States. Lying wholly within the limits of Chicago there are ten separate taxing authorities. A greater degree of unity is secured as a result of the fact that the city government appoints the Board of Education. Neither are the commissioners of Lincoln Park organized as a municipal corporation, but have the city clerk and county treasurer as collector and supervisor ex officio. Moreover, all the bodies are linked together by the provisions of

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1 Pettibone vs. Chicago Park Comrs. 74 N. E. 387.
2 Report on the Municipal Revenues of Chicago, C.E. Merriam, P. 71

of the famous Juul Law.

JUUL LAW.

The Juul Law nevertheless adds to the complication by requiring the aggregate limit of all taxes (with certain exceptions) to not exceed the five per cent constitutional limitation. When the aggregate of all taxes exceeds this amount it becomes the duty of the county clerk to reduce it to five per cent. The exceptions are the state tax, the school building tax, and the sanitary district special tax.

The Juul Law thus links together all the taxing bodies of the city. The practical working of the law, however, results in some peculiar situations. An example is seen in the sanitary district of Chicago. The sanitary commissioners hold, under the act of 1889 the right to assume a bonded indebtedness of $15,000,000 and are under obligation annually to pay the interest and provide for a sinking fund. The required levy for the purpose is about thirty-four cents on the one hundred dollars, which is absolutely necessary. But, according to the reduction under the Juul act it receives but thirty-two or thirty-three cents,"not enough to pay the bonded indebtedness alone and not a cent left for the maintenance of the sanitary district."[1] The result is that the authorities who "spread the taxes" were obliged arbitrarily and in violation of the Juul Law to increase the rate for the district. This "system of maximum tax rates fixed by the State Legislature for specific local purposes can hardly be regarded as other than vicious in character." The local authorities are better able to determine the needs than the General Assembly.

The following table gives the rate of levy assessed by the

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1 Report of the Municipal Revenues of Chicago, Chas. E. Merriam. P. 89

Sanitary Park and school commissioners in Chicago and the amount of the taxes collected.

TABLE III.

THE LEVY (PER $100) BY TAXING BODIES IN CHICAGO.

TAXING BODY.	1880	1890	1895	1900	1901	1902	1903	1904
Schools	0.76	1.958	3.12	3.61	2.138	1.838	1.971	2.32
Sanitary Dist.		0.456	1.50	0.50	0.368	0.475	0.689	0.705
South Park	0.40	0.316	0.34	0.38	0.282	0.29	0.50	0.64
West Park	0.30	0.451	0.80	1.15	0.919	0.854	0.847	0.799
Lincoln Park								
N. Chicago	0.719	1.11	1.17	0.63	0.52	0.792	0.887	0.840
Lake View	0.33	0.522	0.76	0.495	0.394	0.898	0.887	0.840

TABLE IV.

DISTRIBUTION OF TAXES: AMOUNT GOING TO EACH TAXING BODY AND PROPORTION.

	1800	1890	1895
Schools	$890,600--13.7%	$4,249,500--30.2%	$7,596,475--33.5%
Sanitary Dist		1,000,200-- 7.1%	3,652,100--16.0%
West Park	124,616-- 2.1%	263,150-- 1.9%	490,706-- 2.2%
South Park	244,666-- 4.1%	420,942-- 3.0%	509,167-- 2.3%
Lincoln "	103,801-- 1.8%	252,510-- 1.8%	292,863-- 1.3%
	8.0%	6.7%	5.8%

	1900	1901	1902
Schools	$9,984,029-42.1%	$8,008,530--37.4%	$7,397,858--34.1%
Sanitary Dist.	1,382,800- 5.8%	1,376,400-- 6.4%	1,911,800-- 8.8%
West Park	668,015- 2.8%	748,602-- 3.5%	719,041-- 5.3%
South Park	655,253- 2.8%	644,201-- 3.0%	723,886-- 3.3%
Lincoln "	220,060- 0.9%	260,404-- 1.2%	470,860-- 2.2%
	6.5%	7.7%	8.8%

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